



An  
Bord  
Pleanála

## S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

### Inspector's Report ABP-312859-22

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#### Strategic Housing Development

Demolition of the former "Matt's of Cabra" public house and associated structures, construction of 117 no. build-to-rent apartments and associated site works.

#### Location

The former "Matt's of Cabra" public house and lands to the rear, No. 2A Fassaugh Avenue, Cabra, Dublin 7. ([www.fassaughavenueresidentialshd.ie](http://www.fassaughavenueresidentialshd.ie))

#### Planning Authority

Dublin City Council

#### Applicant

R&D Developments Limited

#### Prescribed Bodies

Iarnrod Eireann Irish Rail;  
TII

**Observer(s)**

1. Adrienne Deegan
2. Brenda Douglas
3. Cieran Perry
4. Declan Meenagh
5. Frank and Maureen Bibby  
(Michelle Bibby)
6. Helen and Stephen Connell
7. James Temple
8. John Conway and Louth  
Environmental Group (BKC)
9. Lisa Lynch
10. Marie Fox
11. Marion Talbot
12. Mary Lou Mc Donald
13. Nicholas Kehoe
14. Nicky Cleary
15. Patrick Deegan
16. Sian Muldowney
17. Vincent Kehoe
18. Yvonne Ryan

**Date of Site Inspection**

13<sup>th</sup> May 2022

**Inspector**

Una O'Neill

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site, with a stated net area of c. 0.5318 hectares (excluding area of site associated with proposed public road works), is located on the northern side of Fassaugh Avenue in Dublin 7, c.1.1km from the Canal Ring which is defined in the DCC Development Plan 2016-2022 as the 'inner city'.
- 2.2. The site comprises the now vacant 'Matts of Cabra' public house, which is set back from Fassaugh Road with an informal parking area to the front. The site includes lands to the rear of the public house. The site to the rear of the public house is long and narrow and is overgrown, with evidence of dumping of large volumes of spoil. There are limited views into the site from the public domain.
- 2.3. The site is bounded to the east by the rear of two-storey houses which front onto St. Attracta's Road; to the southeast by Lanigans Funeral Home which also fronts onto Fassaugh Avenue with a parking area to the front; to the west by Iarnród Éireann railway line which at a lower level than the site and beyond which are the rear of two-storey houses on Bannow Road. The ground levels to the rear of the site are at a higher level relative to the properties to the east and the railway line to the west, due to the presence of spoil, which in some cases is up to the top of the boundary walls of dwellings backing onto the site to the east.
- 2.4. Opposite the site, on the southern side of Fassaugh Avenue, is a GAA club and grounds, a Gaelscoil and a Health Centre. There are local neighbourhood centre shops c. 200m west. Mount Bernard Park is 400m to the east and the Royal Canal corridor is 300m to the north. There is an additional primary school 405m to the southeast, and a primary and secondary school c. 600m to the northwest. The green line Luas stop at Cabra is c. 750m to the east and Broombridge Rail Hub/Luas stop is c.1.1km to the northwest (with commuter rail connections to Dunboyne/Leixlip/Maynooth/Sligo-Longford). There is a bus stop served by the 120

bus opposite the site and the stop for the bus route no. 122 is c.200m west at the neighbourhood centre shops. The area is largely characterised by two storey dwellings. A SHD development (Hamilton Gardens) is under construction to the southwest, on the opposite site of Fassaugh Avenue behind the existing GAA club, and it comprises 420 units (108 units per hectare), office, community centre, and creche.

### 3.0 Proposed Strategic Housing Development

3.1. The proposal, as per the submitted public notices, comprises the construction of 117 build-to-rent apartments, resident amenities, and one cafe/retail unit.

3.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

<b>Site Area Net</b>	0.5318 ha (0.6288 ha gross, incl area of proposed road works on Fassaugh Avenue/Quarry Road)
<b>No. of Residential Units</b>	117 build-to-rent apartments
<b>Density</b>	220 units per hectare
<b>Other Uses</b>	257 sqm café/retail unit
<b>Childcare Facility</b>	None proposed
<b>Public Open Space</b>	582 sqm (11%)
<b>Communal Open Space</b>	1754 sqm
<b>Height</b>	Part 1- Part 7 storeys over part basement
<b>Part V</b>	12 units

Table 2: Unit Mix

	<b>1 bed</b>	<b>2 bed (3 person)</b>	<b>2 bed (4 person)</b>	<b>Total</b>
<b>Apartments</b>	67	5	45	117
<b>As % of total</b>	57%	4%	39%	100%

Table 3: Parking Provision

<b>Car Parking</b>	23 (18 standard spaces; 2 visitor spaces; 2 mobility impaired spaces; 3 car club spaces; 3 electric vehicles; 2 motorcycle spaces)
<b>Bicycle Parking</b>	236 (176 res spaces; 60 visitor spaces; 2 commercial spaces)

- 3.3. The primary vehicular access to the site is from Fassaugh Avenue, with parking accommodated within a basement level. Works are proposed on Fassaugh Avenue including improvement works to the existing footpath along the roadside.
- 3.4. A new separate surface water drain will be laid along Fassaugh Avenue to connect the surface water to the existing public surface water network at the junction of Fassaugh Avenue and Quarry Road c. 160 metres from the main development site and a new foul 225mm diameter connection will be provided along Fassaugh Avenue from the site boundary to the existing combined public sewer located c. 40 metres from main development site entrance, with these works incorporating an area of c. 0.0889 hectares.
- 3.5. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject to a valid connection agreement being put in place and conditions listed, the proposed water and wastewater connection to the Irish Water network can be facilitated.
- 3.6. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:
- Planning Report and Statement of Consistency
  - Response to ABP Opinion
  - Material Contravention Statement
  - Architectural Design Statement
  - Housing Quality Assessment

- Engineering Services Report
- Flood Risk Assessment
- Ground Investigations Report
- Outline Construction Management Plan
- Landscape Statement
- Daylight Sunlight Shadow Report
- Sustainability Statement
- Traffic and Transport Report
- DMURS Statement of Consistency
- Residential Travel Plan
- Car Parking Management Strategy
- Appropriate Assessment Screening
- Ecological Impact Assessment
- EIA Screening Report
- Statement in Accordance with Article 299B(1)(b)(ii)(II)(C) of the P&D Regulations 2001, as amended
- Bat Assessment
- Childcare Demand Assessment
- Social and Infrastructure Audit
- Photomontages and CGIs
- Townscape and Visual Impact Assessment
- C&D Waste Management Plan
- Noise and Vibration Assessment
- Microclimate Assessment
- Draft BTR Covenant
- Property Management Strategy Report

- Building Lifecycle Report

## 4.0 Planning History

**SHD Ref. ABP-300666-18** – Permission GRANTED for the demolition and construction of a mixed-use development of three no. 3-4-5 storey blocks, comprising student accommodation consisting of 208 no. ensuite student accommodation bedrooms, and 657.65 sq.m of retail floor space in 2 no. units fronting onto Fassaugh Avenue, and the formation of a public plaza on the Fassaugh Road frontage.

**PA Reg. Ref. 3420/16:** Permission GRANTED for 19 no. residential units and 1 no. retail unit in the form of 11 x 3 storey houses and 8 apartment in a 4 storey block.

**PA Reg. Ref. 3942/04:** Permission granted for a series of 4 x 3 storey over basement blocks, comprising residential (28 apartments), Public House and Bookmakers Office.

### **Vacant Site:**

VS-0453 Site is on the Vacant Site Register

ABP 309821-21 (VS-0453) refers to a section 18 appeal relating to Demand for Payment of levy. The Board confirmed that the site was a vacant site and that the amount of the levy was correctly calculated in respect of the vacant site. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 was, therefore, confirmed.

### **Site to Southwest:**

**SHD Ref ABP-300492-17:** Permission GRANTED for 420 units (419 apts and 1 house), resident facilities, and a neighbourhood centre comprising a supermarket and 3 other retail units, office, community centre, and crèche, in 9 no. blocks of 1-8 storeys. all on CIE lands to the south west of the development site, on the opposite side of the railway bridge at Fassaugh Avenue. Permission was granted on 21st March 2018.

**SHD Ref ABP-305979-19:** Permission granted for 485 units (484 apartments and 1 house), resident facilities, 2 retail/café/restaurant units, and a supermarket, in 9 no. blocks of 1-8 storeys. Permission was granted on 18<sup>th</sup> March 2020.



## 5.0 Section 5 Pre-Application Consultation

### 5.1. Pre-Application Consultation

A Section 5 pre application consultation took place on 20th October 2021 via Microsoft Teams, due to Covid-19 restrictions (Ref. ABP-311079-21).

Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016. In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

#### 1. Design Strategy

Further consideration and/or justification of the documents as they relate to the design strategy for the site in respect of:

a) The proposed height, scale and massing of the proposal, having regard to its locational context. This should include a contextual layout plan which indicates the layout of adjoining developments, photomontages and cross sections at appropriate levels, including details of how the proposed development interfaces with contiguous lands (within and outside the applicants ownership/control), adjoining roads and rail line and residential properties.

Particular regard should also be had to creating suitable visual relief in the treatment of elevations and interface with adjacent lands. An architectural report, urban design statement and additional CGIs/visualisations should be submitted with the application.

b) Open Space Strategy.

c) Response to the issues raised by the Planning Department of Dublin City Council, as contained in the Planning Authority's Opinion dated 6th September 2021.

d) Rationale/justification regarding the suitability of the proposed site to accommodate the proposed height and housing mix with regard to the provisions of the Dublin City Development Plan 2016-2022 and relevant national and regional planning policy including the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'); The 'Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) and the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (2018).

e) In addition to the consideration of local statutory policy and national policy and guidelines, particular regard should be had to demonstrating that the proposal satisfies the criteria set out inter alia in section 3.2 and SPPR3 of the Urban Development and Building Heights, Guidelines for Planning Authorities (December 2018). The applicant should satisfy themselves that the design strategy for the site, as outlined in red, provides the optimal outcome for the subject lands.

The response should also include a report that specifically addresses the proposed materials and finishes and the requirement to provide high quality and sustainable finishes and details. Particular attention is required in the context of the visibility of the site and to the long-term management and maintenance of the proposed development. A Building Life Cycle report shall also be submitted in accordance with section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments (2020).

The further consideration / justification should have regard to, inter alia, the guidance contained in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020, the Urban Development and Building Height Guidelines for Planning Authorities 2018; the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the accompanying Urban Design Manual; the Design Manual for Urban Roads and Streets 2013; and the Dublin City Development Plan 2016-2022.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

## **2. Residential Amenities**

Further consideration and / or justification of the documents as they relate to residential amenity, having particular regard to the potential for overlooking, overshadowing and overbearing impacts on existing adjoining residential properties and proposed residential units within the scheme. The response should include a detailed Sunlight, Daylight and Shadow Assessment of inter alia units proposed, communal open spaces, public open spaces and adjoining lands and properties.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

### **3. Traffic and Transportation**

Further consideration and/or justification of the documents as they relate to the:

(a) Access arrangements off Fassaugh Avenue.

(b) The Car Parking Strategy for the proposed development, having particular regard to the quantum of residential parking proposed, how it is intended to be assigned and managed and measures proposed to address visitor parking and shared parking with other uses proposed as part of the SHD application.

(c) Pedestrian and cycle links and connections to public transport routes and cycle/pedestrian infrastructure.

(d) A response to the issues raised in the Report of the Transportation Planning Division of Dublin City Council, as contained in the Planning Authority's Opinion dated 6th September 2021.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that the following specific information should be submitted with any application for permission:

1. A Housing Quality Assessment which provides the specific information regarding the proposed apartments required by the 2020 Guidelines on Design Standards for New Apartments. The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements.

2. A Report that addresses the quantum and quality of services, facilities and amenities proposed having regard to the future needs of the occupants of the proposed development and a Site Specific Management Plan which includes details on management of the communal areas, public space, residential amenity and apartments.
3. A report identifying the demand for school and crèche places likely to be generated by the proposal and the capacity of existing schools and crèches in the vicinity to cater for such demand.
4. Wind micro-climate study, including analysis of balconies, pedestrian areas and amenity areas.
5. Ecological Impact Assessment.
6. Address issues raised in the Irish Water Submission dated 18th October 2021.
7. A draft Construction Management Plan, draft Construction and Demolition Waste Management Plan and a draft Waste Management Plan and a draft Methodology Statement. These shall include details relation to excavation, enabling works, retaining structures and method of construction and excavations.
8. Response to issues raised in reports contained in Addendum B of the Planning Authority Opinion received by An Bord Pleanála on 6th September 2021.
9. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
10. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant Development Plan or Local Area Plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.
11. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

## **5.2. Applicant's Statement**

- 5.2.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the specific information raised in the Opinion.
- 5.2.2. It is noted that a Material Contravention Statement was also submitted with the application documentation.

## **5.3. Applicant's Statement of Consistency**

- 5.3.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with the policies and objectives of section 28 guidelines and the Development Plan.

## **5.4. Applicant's Statement on Material Contravention**

- 5.4.1. The application documentation includes a report titled Material Contravention Statement which addresses issues of:
- Building Height with reference to Chapter 16 of the Development Plan;
  - Dwelling Mix, Requirement of Units to Exceed Floor Area by 10%, Location of the Proposed Build-to-Rent Units and Build-to-Rent Legal Covenant Dwelling Mix with reference to Section 16.10.1 of the Development Plan;
  - Number of units provided per core with reference to Section 16.10 of the Development Plan;
  - Daylight/Sunlight with reference to Section 16.10.1 of the Development Plan;
  - Apartment Room Sizes with reference to Section 16.10 of the Development Plan;
  - Private Open Space in Some Build-to-Rent Units with reference to Section 16.10 of the Development Plan; and
  - Bedrooms Facing onto Deck with reference to Section 16.10.1 of the Development Plan.

These issues will be addressed further within the main assessment.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

#### **6.1.1. Project Ireland 2040 - National Planning Framework**

A number of key policy objectives are noted as follows:

- National Policy Objective 2(a): A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.
- National Policy Objective 3(b): Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints.
- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 6.1.2. **Section 28 Ministerial Guidelines**

The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)
- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

### 6.2. **Regional Policy**

#### **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**

A number of key Regional Policy Objective (RPOs) are noted as follows:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards

as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments’ Guidelines, and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

RPO 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

### 6.3. Local Planning Policy

#### **Dublin City Development Plan 2016-2022**

**Zoning:** The majority of the site is governed by zoning objective Z1 Sustainable Residential Neighbourhoods Z1, ‘To protect, provide and improve residential amenities’.

A portion of the site to the front is zoned Z3 Neighbourhood Centres Z3, ‘To provide for and improve neighbourhood centre facilities’. Within this zone the applicant has proposed a café/retail unit (undefined). Both uses are permissible uses.

#### Chapter 5 – Quality Housing

**Policy QH6:** To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

**Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

**Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.



**Policy QH18:** To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

#### Chapter 16 Development Standards

**Section 16.3.4 Public Open Space** – All Development: There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1.

The Development Plan states ‘Depending on the location and open space context, the space provided could contribute towards the city’s green network, provide a local park, provide play space or playgrounds, create new civic space/plaza, or improve the amenity of a streetscape’.

**Section 16.5: Plot Ratio** - The indicative plot ratio standard is 0.5 - 2.0 for Z1 lands; and 1.5-2.0 for Z3 land.

A higher plot ratio may be permitted in certain circumstance including:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles Where a site already has the benefit of a higher plot ratio
- To facilitate the strategic role of institutions such as hospitals

**Section 6.6: Site Coverage** - The indicative site coverage standards are 45%-60% for Z1 lands; 60% for Z3 lands.

As with Plot Ratio, higher site coverages may be permitted in certain circumstances.

**Section 16.7.2: Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development** - The subject site is located in an ‘Outer City’ where the maximum prescribed building height is 16 metres for commercial and residential development.

**Section 16.10.3: Residential Quality Standards** – Apartments and Houses:

Public Open Space -

In new residential developments, 10% of the site area shall be reserved as public open space...A landscaping plan will be required for all developments, identifying all public, communal (semi-private) and private open space. The design and quality of public open space is particularly important in higher density areas...

Public open space will normally be located on-site, however in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a neighbourhood park or pocket park) or the upgrading of an existing park. In these cases, financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality, as set out in the City Council Parks Programme, in fulfilment of this objective.

#### **6.4. Natural Heritage Designations**

- 6.4.1. At a distance of c. 200m to the north is the Royal Canal, designated as a Proposed Natural Heritage Area. Approx. 4km to the east is the North Dublin Bay pNHA (000206) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024), the latter being the nearest European site.

### **7.0 Observer Submissions**

- 7.1. In total 21 submissions were received (three of which were from prescribed bodies, see Section 9.0 hereunder). The submissions were primarily made by or on behalf of local residents.
- 7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

#### Policy and Principle of Development

- Material contravention of the development plan.
- No houses proposed, lack of housing mix and tenure, contrary to policies QHSN32/33/36.

- Over concentration of build to rent in the area, contrary to development plan policy for the area.
- Affordable secure rental housing to encourage a family orientated community needed rather than a transient population which Build To Rent developments may attract. The Hamilton Gardens development of 484 apartments is Build-to-Rent only and the proposed development on Bannow Road of 93 apartments is also a Build-to-Rent scheme. This development will add another 117 Build-to-Rent units in a small area with a requirement for secure accommodation.
- Part V not adequately addressed.
- Building Height and Apartment Guidelines are not authorised by section 28(1C) of the Planning and Development Act 2000 (as amended). These provisions are unconstitutional/repugnant to the Constitution. The Guidelines are contrary to the SEA Directive insofar as they purport to authorise contravention of the development plan without an SEA being conducted or a screening for SEA on the variations being brought to the development plan as a result of same.
- Proposal materially contravenes the development plan in terms of density, housing mix, public open space, height and visual impact and cannot be justified by Height Guidelines and SPPRs therein.
- Proposal does not comply with Building Height Guidelines and SPPRs contained therein.
- The proposal materially contravenes the development plan in relation to density, housing mix, public open space, height and visual impact, childcare, car parking and ACA and such material contravention is not justified by reference to S37(2) of the Act or S. 28 Guidelines.
- The proposal materially contravenes the development plan in relation to SS02A and PM17 and such material contravention is not justified by reference to S37(2) of the Act.
- The proposed development is not of strategic or national importance. Purported reliance on the definition in the 2016 Act is erroneous.

- The documentation does not comply with the requirements of the 2016 Act and the Regulations in relation to the requirements for detailed plans and particulars.
- The documentation has not demonstrated sufficient infrastructure capacity to support the development, including by reference to public transport, drainage, water services and flood risk.

#### Density, Design and Layout

- Design out of keeping with scale, character and appearance of the area.
- Scale, massing and density is totally unsuitable for a primarily two storey residential area.
- CGIs are confusing but do show dominance of the proposal.
- Height, scale, bulk and mass is excessive.
- Height of 3-4 storey would be more in keeping, as per development at Liam Whelan Bridge on Connaught Street.
- Lack of social, affordable and cost rental homes as all proposed units are Build to Rent.
- BTR developments such as this application create an insular community whereby residents avail of onsite amenities negating the need to engage with the wider community. This mode of living does not create sustainable communities. A larger variety in apartment type and purpose would lead to better amenities, that can address the needs of those seeking housing in the city

#### Impact on Residential Amenity

- Overshadowing, loss of daylight, and loss of privacy to rear of properties and gardens along St. Attracta Road.
- Loss of morning light and privacy to dwellings on Bannow Street.
- Heights of 7 storeys on a site which is already at a height will be extremely invasive on the surrounding neighbours.
- Overbearing height on properties on St. Attracta Road.
- Negative impact of construction works in terms of noise and dust.

- Quality of proposed apartments in terms of sunlight and open space is poor.
- Concern in relation to structural damage to neighbouring houses during construction.
- Impact of lighting, overshadowing and quality of life for residents of St. Attracta Road and Bannow Street.

#### Traffic and Transportation

- Lack of parking proposed will result in overspill parking on surrounding streets.
- Traffic congestion will worsen with proposed development.

#### EIA

- Full EIA should have been undertaken.
- EIA screening report and ecological report is inadequate and deficient.
- Planning Report, EIA Screening Report and Construction and Waste Management Plans provide insufficient information in terms of potential pollution and nuisances arising, insufficient information to assess risk of human health (such as noise/dust/vibrations etc and mitigation relevant to same).
- The Board lacks ecological and scientific expertise.
- Not appropriate to leave matters to be agreed with planning authority where impacts on human health at construction stage via construction management plan (noise/dust/vibrations).
- Criteria considered and documentation submitted does not comply with requirements of the 2000 Act, 2016 Act, or associated Regulations, or the EIA Directive.
- Insufficient information in relation to bird and bat flight lines/collision risks for the purposes of EIA screening, AA Screening and Height Guidelines and Screening does not adequately consider biodiversity.
- Having regard to the potential for cumulative impacts with this development and other SHD developments, and noting the size of the proposed development, the EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.

- Biodiversity and Human Health Chapter is inadequate and lacks detail.
- Proposal is not in accordance with BRE guidelines.
- The impact on biodiversity and human health during construction and operational phases is inadequate and lacking in terms of detail.

#### Screening for AA

- One observer submission considers the information is 'insufficient, contains lacunae, and is not based on appropriate scientific expertise', with the following concerns highlighted:
  - There are inadequacies and lacunae in the AA Screening Report and the Board does not have sufficient and/or adequate information to complete an AA Screening.
  - The AA Screening assessment does not provide sufficient reasons or findings. Conclusions/statements do not identify any clear methodology and no analysis.
  - The Screening Assessment is flawed as it does not consider all aspects of the development, such as construction compounds and haul roads.
  - Screening is flawed as it does not consider all aspects of the development such as construction compounds and haul roads.
  - Insufficient surveys to assess potential impact arising from bird collision/flight risks as the proposed development may impact flight paths.
  - The Zone of Influence in the Screening Report is not reasoned or explained.
  - No regard/inadequate regard to the cumulative effects of the proposed development in combination with other development in the vicinity on the protected sites.
  - AA Screening Report had regard to mitigation measures contrary to Habitats Directive.
  - Insufficient site-specific surveys and lack of site specific scientific evidence.

## Water Services and Flood Risk

- Flooding and the local drainage system issues - serious fluvial flooding has occurred on roads in Cabra West and Cabra East with the primary cause being the size and limited capacity of existing surface water drains.
- The existing treated water supply to residents in Cabra is also poor due to the age of the pipe work and a development of this magnitude with a possibility of over 200 new residents requires careful planning for the treated water system.

## Other Matters

- Lack of policing in the area to deal with extra people.
- Lack of community gain for the proposed development.
- Conclusions in the Childcare Demand Assessment report by KPMG do not stand up to scrutiny as a standalone document but even less so when considered with the other significant developments in the area.
- Depreciation of property value.

## **8.0 Planning Authority Submission**

### **8.1. Overview**

- 8.1.1 In compliance with section 8(5)(a) of the 2016 Act, Dublin City Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 20<sup>th</sup> April 2022. The report notes the planning history in the area, policy context, site description, proposal, summary of observer submissions, and summary of views of the relevant elected members. The submission includes several technical reports from relevant departments of Dublin City Council. The Chief Executive's Report concludes that it is recommended that permission be refused. It is considered that the proposed development would constitute overdevelopment of the site, fails to integrate successfully into the area and as a result, would seriously injure the amenities of the streetscape and have an excessively overbearing effect upon adjoining properties. In addition the proposal would provide a poor standard of residential accommodation by virtue of residential design elements and substandard quality and quantity of Resident Support Facilities for the future residents of this

Build to Rent development. Three refusal reasons are set out in the submitted CE Report (see S.8.2 hereunder for refusal reasons).

8.1.1. The CE Report from Dublin City Council is summarised hereunder.

8.1.2. **Summary of Inter-Departmental Reports**

- Transportation Planning Division – Conditions recommended.
- Housing - Report cites no engagement by the acting agents with the Housing Department.
- Parks Biodiversity and Landscape Services Section – No objection subject to conditions.
- Drainage Division – No objection subject to conditions.
- Archaeology Section - The proposed SHD is not in the vicinity of any recorded monuments or known archaeological sites. The DCC Archaeology Section has no comment to submit in regard of the above SHD application.
- Waste Regulations – List of requirements recommended.
- Environmental Health Officer – Design mitigation measures outlined in the submitted report (Noise & Vibration Impact Assessment for Planning, ref-AS/21/12088NR01) by AWN Consulting welcomed. Request that the final Construction Management Plan also include the Air Quality Monitoring and Noise Control Unit's Good Practice Guide for Construction and Demolition.

8.1.3. **Summary of View of Elected Members (Appendix B of CE Report):**

- Excessive height and scale proposed, which contravenes development plan.
- The site is located on a hill which further emphasises its elevation particularly in relation to houses on St. Attracta Road.
- Negative impact on the amenities and privacy of nearby two storey dwellings on St. Attracta Road.
- Scale and massing of proposed development is out of character with the Cabra area.



- Critical of the BTR model which would not deliver affordable homes for people in the area.
- Small amount of parking spaces being provided and the danger of overspill parking.
- The impact on drainage which was already at capacity.
- The lack of community gain in proposed development in an area where there is already a lack of sufficient community and local services.
- High proportion of one bed units
- BTR is not family friendly, investor led, contrary to development plan and is really just undesirable.
- Concern was expressed in relation to the over concentration of BTRs in the area which is in contravention of the development plan.
- Critical of the lack of proper maintenance of vacant site in recent years on a main thoroughfare which shows a total lack of respect for local residents.
- Questioned what would be the impact on existing Funeral Home at front of site.

#### 8.1.4. **Summary of CE Planning and Technical Analysis**

##### **CE Report - Principle of Development**

- Acceptable. Principle of residential use and greater height has been established under history of planning permissions on the site.

##### **CE Report – Density**

- DCC is not adverse to such high density schemes, however, the applicant must comprehensively demonstrate that the quality of the scheme is also high. The planning authority does not consider that the proposal results in a high quality, high density, Build to Rent residential scheme as detailed in various sections of this report.

##### **CE Report – Dwelling Mix**

- The lack of 3-bed, family-friendly apartments in the scheme is regrettable in an area dominated by 2-bed housing, despite the applicant's statement that 3-bed houses dominate in the area. A more balanced mix, including the provision of 3-

bedroomed apartment dwellings, would improve the quality of the scheme and be welcomed by the planning authority. However, the option is not available to request same.

### **CE Report – Height, Scale and Massing**

- The site is located in the Outer City. The maximum building allowable under the Dublin City Development Plan 2016 – 2022 on this site is 16m.
- Of most concern to the PA with regard to height is:
  - (i) The proposed relationship between the existing two-storey dwellings along Saint Attracta Road in terms of overlooking, overbearance and impact on outlook on these established properties
  - (ii) The visual impact of the development as viewed from majority of surrounding viewpoints in the vicinity including from in particular from Saint Attracta Road, Fassaugh Avenue
- The PA consider the massing in this proposal is substantially greater than established surrounding residential development. New developments should demonstrate a positive urban design response. In proposals such as this one where the proposed change in massing is intense, respect should be shown for existing development by graduating the massing change in incremental steps. The PA is of the opinion that the development as proposed does not serve to do this. Notwithstanding the revisions made since pre application stage, the PA retains significant concerns regarding the impact of the proposal on the streetscape and on the architectural character and legibility of the area.

### **CE Report – Impact on Existing Amenities**

- The block as proposed is located with limited separation distances of between 10 metres and 17 metres from the party boundaries with Saint Attracta Road dwellings, with numerous balconies, living room and bedroom windows of single-aspect apartments and communal stairwells facing directly towards the rear gardens and rear elevations (where bedroom and living rooms are located) of the these modestly-sized dwellings along Saint Attracta Road. The eastern side of the proposed block is between 2-storeys and 7-storeys height with an unrelieved length of over 112 metres. There are also amenity spaces proposed at roof level facing towards the

closest rear gardens. The facades, particularly the eastern façade, lacks simplicity with multiple windows, very high metal balcony screens (1.8m high to reduce overlooking); fin-like roof profiles etc.

- The proposal provides for an intense and a highly overbearing development on those closest dwellings along Saint Attracta Road. The combination of height, unrelieved length, proximity to adjacent residential boundaries together with rooftop amenity spaces facing towards the rear gardens of the dwellings along Saint Attracta Road is unacceptable. This proposed conditions cannot be improved upon by simply a reduction in height of the block as the amendments that would be required to provide for an acceptable development are so major that amending conditions are not appropriate.
- The Design Statement submitted sets out the balcony screening to east elevation with graphics indicating 1800mm high slat balconies to “prevent overlooking”; This results in balconies serving units that are now proposed to be “boxed in” to attempt to solve one resulting issue i.e. undue overlooking. However, in order to deal with issue, another issue is created i.e. the reduction in residential amenity standards for those apartments with rooms on the eastern side of the block as a result of 1.8m high balcony screens proposed to screen their balconies with consequent reduction in daylight and sunlight and a poorer outlook from within the units.
- Proposal would have a hugely overbearing effect on the dwellings along St. Attracta Road and would seriously diminish their outlook due the combination of excessive height, scale and bulk proposed and such close proximity of the scheme to this sensitive site boundary.
- The separation distances to the eastern boundary are significantly reduced where the development abuts the neighbouring commercial site, i.e. a single-storey commercial property – Lanigan’s Funeral Home, located to the west and zoned Z3 – neighbourhood centre. This is of concern in terms of the impact the building onto the party boundary would have on any future development potential of this adjoining site, and also the impact any above ground floor development on the adjoining site would have on the amenity of the closest apartments in this proposed scheme. Section 2.3 of the BRE Guide recognises the potential to reduce the quality of adjoining land by building too close to boundaries. The guidance does not provide numerical guidance

of sunlighting of land for future development but the planning authority is of the opinion that a proposed development could significantly reduce the availability of sunlight.

- The transition between existing residential dwellings and the proposed development is considered severely abrupt with insufficient regard to the protection of the closest residential properties along Saint Attracta Road and also as viewed from Saint Eithne Road. The development as proposed does not respond well to the surrounding built environment and does not make a positive contribution to this urban neighbourhood.
- This is particularly evident in VVMs 5, 6, 8, 9 and 5 of the 'CGI and Verified Views' document submitted. The accompanying Townscape and Visual Impact Assessment has been considered. The planning authority does not concur with the findings and considers the magnitude to be 'Very High' i.e. *the development will cause a change which will dominate over a limited area*".
- In relation to the western elevation of the block, the maximum height at 24 metres (7 storeys) in one unrelieved length results in an overly dominant development as viewed from the railway bridge and further west along Fassagh Avenue in particular and to a lesser extent from Bannow Road. This western elevation is comprised primarily of excessively long (over 110 metres) lengths of uninterrupted walls of projecting balconies, fenestration and render. The resulting impact is one of an overly dominant, monolithic elevational design that fails to integrate in a cohesive manner into the neighbourhood.
- The PA is of the opinion that the height, scale/unrelieved length and bulk coupled with proximity to party boundaries, residential and commercial (Lanigan's funeral home), is unacceptable.
- It could possibly be built to a maximum of 5 storeys as was recently permitted on the permitted student development SHD scheme on the site and or breaking down the one unrelieved block into smaller block(s) would be a more acceptable design approach to the site allowing for visual relief and improved outlook, particularly from the rear of dwellings on Saint Attracta Road and improve the views of the scheme generally as viewed from a multitude of viewpoints in the vicinity.

- The proposal fails to meet the criteria of Section 3.2 of the Guidelines, particularly in relation to the following: At the Scale of the District/ Neighbourhood/Street - It fails to respond in a positive manner to its built environment and the more modest heights of surrounding buildings by reason of its excessive height, massing, linear layout and close proximity to established two-storey terraced residential properties

### **CE Report - Materials**

- There is lack of consistency across the various documentation submitted with regard to the balconies on the eastern elevation. It is noted that the balconies are referred to as 'concrete' or steel' in the Building Lifecycle report. In other documentation the balconies are referred to as timber.
- The balconies are extensive in height at 1800mm in order to reduce overlooking of the rear gardens of dwellings along Saint Attracta Road. It is unclear if timber, metal or concrete is proposed. The use of timber, while an attractive material in its initial use, can become weathered and visually unattractive if not maintained correctly.
- Should timber be utilised the maintenance and weathering ability of same must be clear and the additional costs borne by the end-user in its maintenance and/or replacement should be clear. This is not detailed in the application.

### **CE Report – Aspect**

- A dual aspect ratio of at least 50% should be achieved on this site, and not 33%.
- The applicant has stated that 54% of the residential units are dual aspect. However, the PA does not accept this figure and considers many of the units to be single-aspect in their design as the second aspect is not a genuine aspect but merely a doorway into a balcony facing toward the balcony screening of the adjoining unit.
- The PA considers that 73 of the units are in fact single-aspect, equating to 62% of units being single aspect and 38% are dual aspect. The PA considers this an unacceptably low figure.
- As a result of the unbroken length of the block, at over 110 metres, and such a high percentage of single-aspect units being provided the resulting internal communal corridors are excessively long with lengths of over 42metres at levels 1 –

5 (inclusive). These corridors have no natural light or ventilation or views out. In this regard the development fails to satisfy the development management criteria at the scale of the building that the form, height and massing of the building be carefully modulated so as to maximise access to natural daylight, ventilation and views – Section 3.2. the Height Guidelines refers.

### **CE Report – Daylight, Sunlight and Overshadowing**

- The PA has analysed the results and notes that unfortunately the results are set out in tabulated form only with no accompanying daylight diagrams to allow for a thorough assessment of the extent of daylight penetration, the identification of rooms and also to allow for a better understanding on a significant variance in results noted between what appear to be very similar rooms e.g. L1.07 (Kitchen /Living) achieves an ADF result of 1.7% while a very similar room with identical layout i.e. L1.09 achieves a result of 2.3%.
- A 7% failure rate is unfortunate and is partially down to the applicant's attempts to minimise excessive overlooking of the adjoining residential development along Saint Attracta Road to the east and to the high number of single-aspect units. The only acceptable compensatory measure that could be considered is the over-provision of communal amenity space however much of the space is at rooftop level which the planning authority would object to and omit as it would have significant negative impacts on residential amenities of properties along Saint Attracta Road.
- Adjoining Properties - The study submitted states that 35 of 55 no. properties surveyed along Bannow Road to the west and along Saint Attracta to the east do not currently receive over 2 hours sunlight (referred to as 'daylight' in study) in at least 50% of their gardens in the current site due to bespoke extensions and sheds which result in more shaded gardens. The PA notes that sheds etc. referred to as temporary in nature. The overshadowing caused by the building proposed would be a permanent condition causing possible significant and detrimental impacts on residential amenities of dwellings adjacent.
- The study is considered poorly executed and presented. The planning authority would welcome further information on this issue but is precluded from requesting same on this issue. There is insufficient information to present conclusive recommendation on this issue.

- Amenity Spaces in the Scheme - The planning authority notes that the term 'daylight' is used in place of 'sunlight' in many sections of the study. This would appear to be an error, however, it is considered unfortunate when the element of analysis is the fundamentally important issue of sunlight.

### **CE Report – Private Amenity Spaces**

- Vents from underground car park are positioned directly outside balconies/private open space and bedrooms at surface level. This is a poorly considered design aspect of the scheme.
- A very unusual aspect of the scheme, and wholly unacceptable from an amenity point of view, is the provision of a so-called internalised 'winter garden' for 5 of the units. The quality of the space has not been demonstrated. The 'winter garden' has not external views and appears simply to be a corner space provided internally in the apartments. This aspect of the scheme is poorly considered with no details on how this might function, or indeed present itself, from within the apartment.
- All ground floor private amenity / terrace areas should also be separated from adjoining communal open space proposed in the scheme by way of soft vegetation buffer screening or similar.

### **CE Report – Public Open Space**

- The landscape proposals (below) include public open space fronting to Faussagh Ave and between the southern end of the block and the rail corridor. The public open space requirement is 10% of the site or 532m<sup>2</sup> and the provision is stated as 582m<sup>2</sup>.
- The layout of the public open space is not an optimum solution with a large portion of the space confined to a relatively narrow area between the western elevation of the block.

### **CE Report – Communal Open Space**

- There is a requirement to provide a minimum of 680 sqm of communal open/amenity space in traditional residential schemes with a reduction in quantitative standards considered potentially acceptable in BTR schemes as per apartment guidelines.

- The applicant has stated that 1760 sq.m. has been provided in the form of Surface/Ground Level Amenity Space, with the figure including 1444 sq.m. at surface level. The planning authority notes the smaller surface area/communal amenity spaces along the eastern boundary with the most useable space therein considered to be the play space adjoining the substation. The main/primary area of amenity space is located to the north of the block with a residents' amenity space (gym) adjoining it. The communal open space exceeds the minimum quantitative standard.
- The provision of an outdoor sports area should also be considered as a possible source of noise complaints to nearby residents. Any mitigation / management measures that could avoid excessive noise levels should be ensured by way of condition should ABP decide to grant permission for the development.
- The planning authority has concerns regarding conflicts between the recreational use of these outdoor rooftop spaces and the residential amenity of the dwellings on Saint Attracta road in terms of potential for noise and disturbance. Having regard to the extent of amenity spaces provided for at surface level it considered that the rooftop spaces be omitted should ABP be minded to grant permission, to protect amenities of adjoining residential development.

### **CE Report - Build to Rent Amenities**

- The proposal documentation states that 402 sq.m. of Residents Services and Amenities are provided as listed above. With 262no. bedspaces proposed and approximately 402 sq.m. of internal BTR recreational facilities proposed this results in less than 1.5.sq.m. of recreational amenities per bedspace. Unfortunately guidance on the quantum of such amenities to be provided is not provided for in the Apartment Guidelines. However the planning authority is of the view that the minimum figure commonly used is 2 sqm per bedspace but it could vary from 2-4 sq.m. depending on the scheme and the quality of the spaces together with the quality of the external amenity spaces. The scheme is grossly underprovided in this aspect.
- In all cases the obligation is on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an overall enhanced



standard of amenity. The applicant has not done so and the scheme is seriously substandard in this regard.

- The Planning Authority is wholly unsatisfied with the level and diversity of residents support and service and amenity facilities proposed and does not consider the requirements of SPPR 7 to be fulfilled. Permission should be refused on this basis.

### **CE Report – Transport Planning Issues, as per Appendix to CE Report**

- Based on the information provided, the residential car parking ratio is 0.1531 to serve the development. The application site is located within Area 2 of Map J ‘Strategic Transport and Parking Areas’ in the Dublin City Development Plan 2016-2022. Table 16.1 outlines the maximum car parking standards for residential as 1 space per dwelling and 1 space per 350 sq.m retail GFA, which would result in a maximum requirement of 118no. car spaces. It is acknowledged that the Development Plan standard is maximum.
- Based on the proximity of the site to public transport and key employment hubs within a reasonable walking distance / cycling distance set out in the application documentation, it is appropriate to consider the site as ‘Central and/or Accessible Location.
- A Residential Travel Plan (RTP) & Car Parking Management Strategy (CPMS) have been submitted. The approach to car parking management is considered appropriate.
- A condition to ensure that RTP and CPMS is implemented should be included.
- As the deliveries and services are accommodated within the site, a service delivery plan can be submitted a Condition of permission.
- It is noted that each car share space has the potential to replace the journeys of up to 15no. private car. In the context of the proposed, this represents a potential for 45no. spaces. The provision of car sharing on site is welcomed.
- The TTA shows that the development junction onto Fassagh Avenue currently operates within its effective capacity and will continue to operate within capacities past the year 2039.

## **CE Report – Child Care Facilities and Social Infrastructure**

- The applicant has submitted a Social Audit concluding there is sufficient social community facilities to serve the population of the development.

## **CE Report – Conclusion**

- There is no objection in principle to the development of the site for residential purposes. Permission for a residential scheme has already been established on the site under an extant SHD Ref ABP-300666-17. However the proposed development is not considered appropriate in its current form. It is considered that the proposed development would constitute overdevelopment of the site, fails to integrate successfully into the area and as a result, would seriously injure the amenities of the streetscape and have an excessively overbearing effect upon adjoining properties. In addition, the proposal would provide a poor standard of residential accommodation by virtue of residential design elements and substandard quality and quantity of Resident Support Facilities for the future residents of this Build to Rent development.

### **8.2. Statement in accordance with 8 (3) (B) (II)**

Dublin City Council Chief Executive's Report recommends a refusal based on the following three reasons:

1. Having regard to the need for buildings of greater height to achieve high standards of urban design and architecture and to successfully integrate with the character and public realm of the area as per Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018), the proposed development does not successfully integrate with established residential development in the vicinity and constitutes overdevelopment of the site by reason of its excessive height, unrelieved and excessive length, monolithic design, the provision of roof-top amenity spaces, and proximity to the private residential gardens along Saint Attracta Road and Lanigan's Funeral Home site. The development as proposed would depreciate property values and prove to be seriously injurious to established residential development in the area by way of overbearing impact and excessive overlooking of private gardens. The proposed development would, therefore, be contrary to the Ministerial Guidelines and the proper planning and sustainable development of the area.

2. Having regard to the need to provide for high quality Resident Support Facilities in BTR residential schemes, supported by an evidence basis of the appropriateness of same, and the obligation on the project proposer to demonstrate the overall quality of the facilities proposed and to demonstrate that the residents will enjoy and enhanced overall standard of amenity as per SPPR 7 of Sustainable Urban Housing : Design Standards for New Apartments (2020), the Resident Support Facilities proposed in this scheme are inadequate in terms of quality and quantity. The applicant has failed to demonstrate to the satisfaction of the planning authority that the future occupants of the scheme would enjoy an enhanced standard of amenity and, therefore, seek to remain tenants in the longer term. The proposed development would, therefore, be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.
3. The proposed development would fail to provide an acceptable standard of residential amenity for future occupants in accordance with the provisions of the Guidelines for Planning authority on Design Standards for New Apartments (2020) as a result of an excessive provision of single-aspect units; excessively long internal corridors; non-provision of private open space for a number of units and the failure of a number of units to reach minimum daylight target standards in the absence of robust mitigating compensatory measures. The proposed development would, therefore, be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.

## 9.0 Prescribed Bodies

The applicant notified the following prescribed bodies prior to making the application:

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- Coras Iompair Eireann
- Commission for Railway Regulation
- DCC Childcare Committee

Three of the bodies have responded and the following is a summary of the points raised.

- 9.1. Irish Water: Based upon details submitted by the developer and the Confirmation of Feasibility issued by Irish Water, Irish Water confirms that subject to a valid connection agreement being put in place between IW and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.
- 9.2. Transport Infrastructure Ireland: The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen's Green to Broombridge Line) under S.49 Planning and Development Act 2000, as amended.
- 9.3. Iarnrod Eireann Irish Rail:

The following issues as raised in the submission are noted, in addition to a number of construction related conditions:

- IÉ believe that the applicant has encroached onto the Board's property to the North West of the site, see Figure 1. The site boundary line claimed by the applicant clearly encroaches onto CIÉ/IÉ lands for which the company retains good and proper title. The applicant is requested to alter the site boundary shown on the planning drawings to the satisfaction of CIÉ/IÉ. This should be a condition of planning should the planning application succeed.
- Surface Water Management – IÉ fully supports the Greater Dublin Regional Code of Practice for Drainage Works policy and understands the need to keep surface water runoff from proposed developments on-site and to limit runoff from overwhelming the existing surface water system. However, the applicant submitted drawings, Drawing Nr. C -001 Revision P1, incorporates permeable ground surface areas of "Permeable finish with discharge to ground" to the rear (and other areas of the site) of the proposed site, see figure 2. This location is at the crest of a Cut slope, IÉ serial Nr. CT0002D. which is approx. 7m below the level of the Applicant's property. Concern raised is that much of the water that goes to ground will run onto railway property thus saturating the Cutting slope. Drainage from adjacent developments is one of the primary causes of landslips on the railway and pose a real and substantial risk to railway safety. The storm water runoff from the proposed

development should be fed into the existing stormwater system via an attenuation tank.

- No additional liquid, either surface water or effluent shall be discharged to, or allow to seep onto, the railway property or into railway drains / ditches.
- Ground Water Control System During Construction – If the development incorporates a ground water control system, i.e. abstraction wells, pumps or boreholes, etc, to enable excavation works the applicant should carry out a, “Potential Damage Impact Assessment” to satisfy IÉ that the railways infrastructure will not be adversely affected.
- The proposed development lies directly adjacent to, and east of, the North Wall GSWR Branch Railway line over a linear length of approximately 100 metres between overbridge OB07 to the South West and St Attracta road to the East. In keeping with a residential development of this scale and density a 2.4m high appropriately designed, solid block/concrete boundary treatment, should be erected by the applicant on the applicants’ side of the boundary to the Railway. The maintenance of this boundary treatment rests with the Applicant and Successor-in-Title. The exact location and details of this boundary treatment is to be identified on site in co-operation with this office.

## 10.0 **Assessment**

### 10.1. **Introduction**

10.1.1. Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all of the submissions received in relation to the application, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Zoning and Principle of Development
- Density
- Development Layout and Urban Design
- Height, Scale, Mass and Design

- Quality and Residential Amenity of Proposed Development
- Impact on Amenity of Neighbouring Properties
- Biodiversity/Ecology and Landscaping
- Social Infrastructure Assessment and Childcare Analysis
- Traffic, Transportation and Access
- Infrastructure Services, including Flooding Issues
- Material Contravention
- CE Report - Planning Authority Refusal
- Other Matters

These matters are considered separately hereunder.

10.1.2. I have carried out an Environmental Impact Assessment Screening and Appropriate Assessment Screening in respect of the proposed development, as detailed later in this report.

10.1.3. Each section of the report is structured to guide the Board to the relevant section of the EIA Screening, AA Screening, relevant policy, substantive issues raised in the submissions / observations and the applicant's response as appropriate.

## 10.2. **Zoning and Principle of Development**

10.2.1. The proposed development is for 117 apartments, with a café/retail unit fronting Fassaugh Avenue. I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.2.2. The site is subject to zoning objective Z1, 'To protect, provide and improve residential amenities', with a small portion of the site zoned Z3 'To provide for and improve neighbourhood centre facilities'. Residential uses and retail are permissible uses under Z1 and café use is open for consideration under Z1. Residential, retail and café uses are permissible uses under Z3.

10.2.3. I am satisfied that the proposed development is consistent with the zoning objectives and that no issues of principle arise. The principle of development is therefore acceptable, subject to assessment of other planning matters as set out hereunder.

The planning authority in the submitted CE Report concurs that the proposed development is acceptable in principle. The CE Report further notes 'The proposal to demolish 'Matts of Cabra' Public House is acceptable in principle. The demolition of the building has been approved under numerous planning approvals on the site and there has been no change in planning policy to cause objection to same'. I note the building to be demolished is of no architectural merit.

### 10.3. **Density**

- 10.3.1. The proposed development comprises 117 units on a net site of 0.5318ha, with a resulting net density of 220 units per hectare.
- 10.3.2. A number of observer submissions have expressed concern in relation to the scale, massing and density of development, which is considered excessive for this location.
- 10.3.3. The CE Report states that 'the planning authority is not adverse to such high density schemes', however, 'the applicant must comprehensively demonstrate that the quality of the scheme is also high'. The planning authority notes the proposed gross density is 172 units per hectare compared to density of 108 units per hectare on the Hamilton Gardens site. The PA does not consider that overall the proposal results in a high quality, high density, Build to Rent residential scheme when all matters are considered in totality, as set out in the CE Report.
- 10.3.4. I consider hereunder national policy and the locational context of the site as it relates to density (other planning issues arising in relation to visual impact and impact of design/scale/massing on residential amenity are considered further in Sections 10.5, 10.6, and 10.7 of this report).
- 10.3.5. In terms of the national policy context, the National Planning Framework (NPF) 2018 promotes the principle of 'compact growth' at appropriate locations, facilitated through well designed higher density development. Of relevance is NPO 13, 33 and 35 of the NPF which prioritise the provision of new homes at increased densities through a range of measures including (amongst others) in-fill development schemes and increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within the existing urban envelope. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary. It recognises that at a metropolitan scale, this will require focus on underutilised land within the canals and

the M50 ring and a more compact urban form, facilitated through well designed higher density development.

- 10.3.6. The RSES for the region further supports consolidated growth and higher densities, as per Regional Policy Objective (RPO) 5.4 which states that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards. In relation to Section 28 guidance, the documents Sustainable Residential Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, all provide further guidance in relation to appropriate densities and support increases in densities at appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 10.3.7. The Guidelines on Sustainable Residential Development in Urban Areas (SRDUA) states that for sites located within a public transport corridor, it is recognised that to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities. The guidelines state that minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, ie within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. With regard to infill residential development, it is detailed that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The guidelines state that the capacity of public transport should be taken into account when considering density. The site can be described as within a transport corridor, with the green line Luas stop at Cabra c. 750m to the east; Broombridge Rail Hub/Luas stop is c.1.1km to the northwest; and a bus stop served by the 120 bus is directly opposite the site with a the stop for the bus route no. 122 is c.200m west at the local neighbourhood centre shops.
- 10.3.8. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the



provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The guidelines address in detail suitable locations for increased densities by defining the types of location in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. As noted in the CE Report, the following employment, education, and transport facilities are proximate to the site:

- 1.5km from Technological University of Dublin (Grangegorman Campus)
- 1.7km from The Mater University Hospital
- 0.75km from Cabra (Green Line) Luas Stop
- 1.1km from Broombridge Rail Hub/ Luas Stop
- 1.5km from Glasnevin Metro / Rail Hub (Proposed)
- Public car share in the area is located at the local centre (250m) to the west of the site as well as other sites in the wider vicinity.
- The nearest Dublin Bikes stand is approximately 14min walk (1.1km) from the proposed development.

10.3.9. Having regard to section 2.4 of the Apartment Guidelines, the site is in my opinion a 'Central and/or Accessible Urban Location', being defined as 'Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions; Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services'. I am satisfied that the site is well placed to accommodate high density residential development given its proximity to high capacity public transport of both the Luas and bus, within walking distance of significant employers and within short commute (walking, cycling, Luas, bus) of a range of employment options, and within walking distance of a range of services and amenities. I am of the opinion that the delivery of residential development on this prime, underutilised, serviced site, in a compact form

comprising higher density units would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b).

10.3.10. The Urban Development and Building Height Guidelines (2018) state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels. These guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. It is stated that within city and town centre area, such as within the Canal Ring in Dublin (the subject site is outside the Canal Ring), it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective. The guidelines allow for the scope to consider greater heights subject to objectives and criteria set down in Sections 2 and 3 of the guidelines. They caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities and high quality architectural, urban design and public realm outcomes, which I consider elsewhere in this report.

10.3.11. In terms of local policy, Dublin City Development Plan states the council will promote sustainable residential densities in accordance with the Guidelines on Sustainable Residential Development in Urban Areas (as considered above). The plot ratio and site coverage standards comply with those of the operative City Development Plan. No upper density limit applies to these zoned lands in the development plan.

10.3.12. Having regard to national and local planning policy, I am satisfied that the site is sequentially well placed to accommodate growth, being an infill site within Dublin City and Suburbs and, in terms of the density proposed of 220 units per hectare, this is in compliance with minimum densities recommended under the various scenarios

which are considered in existing S.28 guidelines and under the operative development plan, and the proposed density in itself is therefore acceptable, however, this is subject to further assessment in relation to qualitative standards achieved and other planning matters, which are examined in more detail throughout this report hereunder.

#### 10.4. Development Layout and Urban Design

10.4.1. The layout of the scheme has been informed by the existing site context, with the railway line at a lower level bounding the site to the west and existing two storey residential dwellings backing onto the site to the east, with a funeral home (and block of unregistered land to the rear of it), adjoining the Fassaugh Avenue frontage. The 32m wide frontage to Fassaugh Avenue is also an important element of the scheme. The site is deep in form and relatively narrow in width, being wider at the frontage onto Fassaugh Avenue and reducing in width to the rear, to c.7.4m width at the northern end. There is an angle indented into the site to the east, to the rear of the neighbouring funeral home, which is stated on the site layout plan to comprise unregistered land.

##### Block Layout

10.4.2. Two blocks are proposed to accommodate the 117 build to rent units. An L shaped block covers the majority of the site and addresses the frontage onto Fassaugh Avenue, being 27.4m wide, reducing in width to c. 18m, with the building being overall c.75m deep. The L shaped block rises from 5-6-7 storeys from Fassaugh Avenue, increasing into the site, with the upper 6<sup>th</sup> and 7<sup>th</sup> floors set back from the eastern boundary within the site. There is an undercroft vehicular entrance to the basement, including pedestrian entrance, from Fassaugh Avenue, c. 16.9m wide, which is built over from first floor level up. There is one ground level 5.2m wide pedestrian passage east-west within the block (where the pedestrian entrances to the rear section of the building are proposed) and this is also built over from first floor level up. The second block is located at the northern end of the site, with a c. 3m separation distance from the L shaped block and it follows approximately the same alignment as the L shaped block. The northern block is c.12m wide and 28m deep. It is predominantly four storeys high, with ground level residents communal area/gym and apartment over adjoining the proposed open space at the northern end of the

site. It does not comprise a lift, with access via an external side open stairs within the c. 3m gap between the blocks, which links to a deck access to the east of the block providing access to the apartments. While there is a c. 3m separation between the blocks in which the open stairwell is located, I note a slatted timber screen is proposed to the stairs and deck, which visually connects the buildings when viewed from the east. The overall depth of the L shaped block combined with the northern block is c. 109m.

- 10.4.3. The overall height ranges from 2-5-6-7 storeys, with the middle section of the site comprising the greatest height. The overall height of the block at the Fassaugh Avenue side rises from c. 14m (4 storeys) to c. 17m (5 storeys), to set back 6<sup>th</sup> storey c. 20m high, to set back 7<sup>th</sup> storey c. 23m high (which is the overall height across the block), with two additional pop-up lift elements of 1.7m/1.9m high. The rear section of the block drops to c. 19m (4 storeys) and c. 8m (two storey element).
- 10.4.4. The two storey dwellings fronting onto St. Attracta Road and which back onto the site, comprise 4 terraced blocks and given the angle of the site, there is a variation in separation distances. In terms of separation distances to boundaries, the proposed L shaped building is c. 0.4m-1m from the boundary with the funeral home at its closest point (proposal is 6 storeys at this point); c.5-11m from the 'unregistered land' to the rear of the funeral home (proposed building is six storeys and partial seven storeys at this location); c. 16m from the boundary with the two storey dwellings where the proposal is a full six storeys (plus set back seventh storey) and c.28-34m from the elevation of the two storey dwellings and the elevation of the proposed block; c. 13.6m from the boundary where the building is partially 5 storeys with set back sixth and seventh storeys (c. 36-37m between the elevation of the houses and the block); c. 13m from the boundary where the proposed building is four storeys (c. 28-31m between the elevations); and c. 10-11m from the boundary where proposed building is two storeys (c. 24-28m between elevations). The distances are shorter in a number of instances where there are single storey rear extensions and to the rear of no. 313 and no. 287 which have two storey extensions to the rear. I refer the Board to pages 37-44 of the submitted Architectural Design Statement.
- 10.4.5. In terms of materials, brick is proposed on the elevation to Fassaugh Avenue and on the northern elevation at the rear/north end of the site, with the east and west elevations comprising a mix of light render, dark render at the upper levels, light grey

metal to circulation core on the east and on the west side, and use of timber slatted 1.8m high screens on all the eastern balconies and to the external deck serving the four storey element along the eastern elevation, with the western elevation using metal balconies. The eastern elevation is stated in the Architectural Design Statement to be broken into three blocks 'by the vertical striations of a distinct circulation core and deck access'. The massing of the western elevation is stated to be broken up by numerous steps in ridge profile, and reveals and set backs in the elevation, similar to the east elevation. It is stated that the balconies on the west elevation 'also serve to break up the massing'.

10.4.6. Section 16.2.2.2 for the City Development Plan 2016-2022, sets out the overall design approach in relation to Infill Development and recognises the importance of new development to respect and enhance its context and to be well integrated with its surroundings, thereby ensuring a more coherent cityscape. I consider the overall proposal as it extends into the site up to a height of seven storeys would be visually overbearing and monolithic when viewed from the public realm and from the rear of residential properties to the east, as well as from properties to the west, particularly given proximity to the eastern boundary, and given the design, scale and massing of the proposal. The proximity of the six storey (partial five storey) element to the boundary with properties on St. Attracta Road is of concern, in particular relating to dwellings no. 305 and those to the south of it. I note the design of the block alters to part four storeys/part five storeys which improves impacts in terms of daylight to existing properties, however, I consider the design has overall not adequately responded to the neighbouring properties to the east in terms of the scale, bulk, and mass of the proposal, with a lack of modulation in the footprint and materials utilised. This is evident also from the western elevation where there is less staggering at the upper levels in addition to lack of modulation of the footprint and lack of variety in materials. While the Fassaugh Avenue frontage, with its staggered height, active ground floor level, use of brick, and public plaza would make for a positive urban edge to this street at ground level, the overall scale, mass, height and design of the development when viewed from the east and west along Fassaugh Avenue (as well as from Bannow Street and St. Attracta Road) would in my view be excessive and would not integrate satisfactorily with the adjoining areas, appearing over scaled and monolithic in appearance. This is evident in the CGIs submitted, in particular VVMs

5, 6 and 9 (discussed in further detail hereunder). The height and proximity to boundaries at Lanigans Funeral Home and design treatment of this eastern elevation would also be visually overbearing and obtrusive from this property, with the documentation demonstrating a lack of consideration (particularly in terms of sunlight daylight) of the impact on Lanigans Funeral Home site and of the development potential of the property to the rear of that given proximity issues.

10.4.7. With regard to materials, the extensive use of render on the west and east elevations is a concern in terms of maintenance of these highly visible facades as is the durability of using timber on all eastern facing balconies and to the deck area. I further consider the materials proposed on both east and west elevations do not successfully contribute to a breaking down of the massing of the development as suggested in the Architectural Design Statement, with the timber slats to all balconies and access deck on the eastern elevation resulting in a very inactive elevation when viewed externally, as well as having visual and daylight implications for residents from within.

10.4.8. Overall, I consider the design response in terms of layout, scale, and massing of the blocks inappropriate having regard to the site's locational context and to the established character and pattern of development in the immediate area. This is reinforced when considered against key planning criteria and standards as discussion elsewhere in this report.

#### Public Open Space Layout

10.4.9. The Dublin City Development Plan under Section 16.3.4 states in relation to the function of public open space, that 'Depending on the location and open space context, the space provided could contribute towards the city's green network, provide a local park, provide play space or playgrounds, create new civic space/plaza, or improve the amenity of a streetscape'. Section 16.10.3 further states that 'Public open space is open space which makes a contribution to the public domain and is accessible to the public for the purposes of active and passive recreation, including relaxation and children's play. Public open space also provides for visual breaks between and within residential areas and facilitates biodiversity and the maintenance of wildlife habitats. In new residential developments, 10% of the site area shall be reserved as public open space'.

10.4.10. Open space is proposed to the north, west and east of the site, with an area of 645sqm indicated to the north and 649sqm indicated to the east, resulting in a total of 1294sqm. These areas are identified on the plans as communal amenity space and two additional external amenity spaces are provided at sixth and seventh storey levels. An area of 582sqm is identified to the south/front of the building adjoining Fassagh Avenue and is labelled public open space. I would question the 582sqm calculation applied to the open space area adjoining Fassagh Avenue to the south given the inclusion of the vehicular entrance/roadway into the site and part of the undercroft area in the calculations, nonetheless there is a public amenity value to this area in front of the building, subject to it being delivered to a high quality design. The Planning Statement indicates the development provides 200 sqm of play space for older children in the form of a multi-use games area (MUGA) including a semi-basketball court, a semi-football pitch with ballstop fence, outdoor table tennis, lawn area with mounds and 140 sqm of play space for younger children in a linear adventure play area. The PA raises concerns in relation to noise generation associated with the open space. I consider the operation of the open space at grade will not give rise to undue noise and mitigation measures to ensure active management of the space by the management company will address any concerns which do arise. With regard to the issue of potential dis-amenity arising from use of the upper-level communal amenity spaces, I consider these has been designed with sufficient set back and planting to mitigate potential of overlooking. I note the Noise and Vibration Impact Assessment submitted considers the daytime noise associated with the rooftop spaces acceptable, with mitigation measures in terms of management to be put in place, and it is stated that the rooftop area will be closed at 23:00 which negates night-time impacts. Should the Board be minded to grant permission, I consider a condition could be attached to any grant of permission to limit night-time use of the upper external amenity areas to 22:00hrs. While the plans identify the area to the west of the building as a communal amenity area, this area is limited in value given its function is primarily as a pathway, albeit I note there is a ground level recessed area adjoining the internal communal lounge and the café/retail unit. I discuss further the quantum and quality of communal open space in section 10.6 hereunder, however, overall I consider the quantum of external communal space to be acceptable for the scale of the development and while the

provision of alternative communal support facilities and amenities could be of a greater scale, subject to a condition in relation to uses proposed, these communal facilities are considered adequate.

#### **10.5. Height, Scale, Mass and Design**

- 10.5.1. The height, scale, design, and massing of the proposed development is considered hereunder in terms of the quality of the proposed development and impact on the character of the area. Potential impacts on residential amenities in terms of overlooking, loss of privacy, and overbearance are considered in more detail in Section 10.7 of this report.
- 10.5.2. A numbers of submissions raise concerns regarding the height, scale and massing of the proposed development, significant negative visual impact of the proposal, and concern that it is out of keeping with the existing character of the area, in particular the dwellings to the east. Observers consider that the proposal should not materially contravene the development plan in terms of height.
- 10.5.3. The CE Report states that in terms of development plan policy, the site (which is not located within 500m of an existing or proposed LUAS, DART or Metro Station) has a maximum building height allowable of 16m. The proposed maximum height to parapet level is c. 23m, with two additional pop-up lift and plant elements resulting in a height in part of c.24.43m. The application includes a Material Contravention Statement in respect of building height, and this is referenced in the public notices. The Board can, therefore, consider invoking Section 37(2)(b) of the Planning and Development Act (as amended), in this instance where it is minded to grant permission. It is noted that SPPR3 provides that permission may be granted where the development management criteria in the guidelines are met, even where specific objectives of the relevant development plan or local area plan indicate otherwise. A case is made by the applicant for extra height based on criteria within the Building Height Guidelines, including the site's proximity to high-capacity public transport, established precedent for higher buildings and the successful integration into the existing context. I refer the Board to Section 10.12 hereunder in relation to the issue of material contravention.
- 10.5.4. The CE Report states the PA is particularly concerned about the height and proximity of the development to the eastern boundary and consequent impacts of



overlooking, overbearance and outlook, in addition to the visual impact on the surrounding area. The PA is also concerned about the massing of the proposal and consequential impact on the streetscape and on the architectural character and legibility of the area. One of the refusal reasons recommended by the PA is as follows:

Having regard to the need for buildings of greater height to achieve high standards of urban design and architecture and to successfully integrate with the character and public realm of the area as per Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018), the proposed development does not successfully integrate with established residential development in the vicinity and constitutes overdevelopment of the site by reason of its excessive height, unrelieved and excessive length, monolithic design, the provision of roof-top amenity spaces, and proximity to the private residential gardens along Saint Attracta Road and Lanigan's Funeral Home site. The development as proposed would depreciate property values and prove to be seriously injurious to established residential development in the area by way of overbearing impact and excessive overlooking of private gardens. The proposed development would, therefore, be contrary to the Ministerial Guidelines and the proper planning and sustainable development of the area.

10.5.5. The applicant has submitted an Architectural Design Statement, section 5.4 of which provides a design rationale for the height, assessed against Section 3.2 of the Building Height Guidelines. It is stated in the submitted report that:

'In response to the 5-8 storey height of the Hamilton Gardens scheme, the proposed scheme rises from 1-7 storeys, stepping down towards the suburban residential setting on St. Attracta Road; thus providing a contextually sensitive form in blending between the range of development heights within the area. The scheme's materiality, emphasising brick and render, is in keeping with the historic materiality of the city and local environment'.

10.5.6. It is stated that the scheme avoids long, uninterrupted wall through use of materials, stepping in height and through a rhythm of balconies along the façade, all serving to

avoid a monolithic form. With divisions in volume achieved through ‘the stepping of height, use of clerestory windows, sloping roof shelters and circulation cores’.

- 10.5.7. I note there is an extant planning permission on the site for 3-4-5 storey student accommodation in three blocks. There is also a development known as Hamilton Gardens under construction to the southwest of the site, visible from Fassaugh Avenue, on the opposite side of the railway line, with heights of 2-8 storeys. While both applications are referenced by the applicant as precedent for higher buildings and density, with reference in particular to Hamilton Gardens, I note the extant permission on the site differs in scale, bulk, massing, overall height and distances to existing two storey properties from that which is currently proposed; and in relation to the Hamilton Gardens site, that site is at a lower level to the application site and I note the distances between the higher 8 storey buildings of that development to the boundaries with the two storey properties is greater than proposed in this application. While I am cognisant of and have reviewed the planning history of the application site and those in the area, I would highlight that each application is assessed on its own merits and each site and context is unique.
- 10.5.8. I note concerns raised by observers in relation to clarity of CGIs, which show the scheme proposed at the pre-application stage and the scheme as now proposed in this application and some observers appear to have been unclear as to what is proposed as part of this application. While it may have been clearer to omit the pre-application stage images which are irrelevant in this assessment, I am satisfied that the images submitted have all, nonetheless, been labelled. I have sufficient information before me to assess the visual impact of the development, including proposed drawings, site sections and submitted contiguous elevations from the east, north, south and west, as well as the submitted CGIs and aerial photos. I have had regard to all observer submissions, to the submitted Townscape and Visual Impact Assessment (VIA), Verified Views and CGIs Report, and the Architectural Design Statement and it's Appendix, and I have visited the site and the surrounds.
- 10.5.9. The policy basis for my assessment of the height of the development is informed by both national and local planning policy. In terms of national policy, I have assessed the development against the ‘Urban Development and Building Heights Guidelines for Planning Authorities’ (the Building Height Guidelines), which provides a detailed national planning policy approach to the assessment of building height in urban

areas and states that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. I have considered these guidelines alongside other relevant national planning policy standards, including national policy in Project Ireland 2040 National Planning Framework, particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements. In terms of local policy, I have had regard to the Dublin City Development Plan 2016-2022, in particular Section 16.2.2.2 in relation to Infill Development and Section 16.7 in relation to Building Height.

10.5.10. I have considered the SPPRs and Development Management Criteria under section 3.2 of the Building Height Guidelines (2018) in my assessment. The guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. Section 3.1 of the Building Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights (note my response is under each question):

- 1. Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

My Opinion: Yes – as noted and explained throughout this report this is achieved by focussing development in an urban location with good public transport accessibility and supporting national strategic objectives to deliver compact growth in urban centres. The planning authority is also of the opinion that the site is suitable for a higher density of development, subject to assessment against other planning criteria.

2. *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

My Opinion: in my opinion the building height strategy within the operative development plan does not take clear account of the requirements set out in the Guidelines.

3. *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

My Opinion: It cannot be demonstrated that implementation of the policies of the operative development plan, which predate the Guidelines, support the objectives and policies of the NPF.

10.5.11. Section 3.2 of the Building Height Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments. I have concerns in relation to the height, scale and massing of the proposal at the scale of the relevant city and at the scale of the neighbourhood/street. This is discussed in detail hereunder and also in Section 10.7 of this report.

### **Section 3.2 Criteria: At the scale of relevant city/town**

#### **Public Transport**

10.5.12. The first criteria under section 3.2 of the Building Height Guidelines relates to whether the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. I note the PA has not raised concerns in relation to the capacity of the bus services available.

10.5.13. The site is located beside a no.120 Dublin Bus stop, within 750m of the Cabra Luas stop, and 1.1km from Broombridge Luas and Train Station. The site is 1.2km from Phibsborough, 1.6km from the Mater Hospital, and 2km from TU at

Grangegorman. Under the Apartment Guidelines, for central and/or accessible urban locations, higher density development is appropriate on sites within 1-1.5km of principal city centres or significant employment locations including a hospital or third level institution; or sites within 800-1000m walk to/from high capacity urban public transport of a Luas, or within 400-500m walk of a high frequency (min 10 min peak hour frequency) urban bus service. In my opinion the site can be classified as a central and/or accessible urban location. The closest bus stop is on the opposite side of the street from the development and is served by the 120 bus service (Ballsbridge to Ashtown Train Station) with a 15 minute frequency during am peak times. There are 5 buses available on the 120 bus route in one hour during the am peak, with a potential capacity of 450 passengers. Route 122 has a greater frequency of 10mins during the peak, with 7 buses during the am peak, having a capacity per hour of 630 passengers. The no. 38 buses have 20 min frequencies and are a further walk being on Quarry Road, c. 600m from the site. The capacity of a route varies at different times of the day, with capacity at most pressure during peak hours, however, increased frequency can relieve such pressures and I note the guidelines state 'or where such services can be provided'. Should this development place additional demand on buses, it is possible to increase the services at this location with increased demand, and this is the NTA strategy across Dublin for bus based public transport, with capacity and frequency intrinsically linked. In addition to the bus service, the green line Luas operates at an average of 3-5 minute frequency during peak times, with capacity per tram being 310 passengers (increasing to 480 passengers on the longer trams), which at the lower end is a peak time capacity of c. 6200 passengers. I note the wide range of options open to people in this area and I am satisfied that the service as it exists is high capacity and is high frequency. I consider the site is ideally located and well serviced with options to access existing high frequency high capacity public transport routes, with links between modes, as well as increased access and connections available through more active modes of walking/cycling, with a range of services, amenities, and high employment areas within walking and cycling distance. As with car traffic, peak hour congestion is to be expected in urban areas and I have no evidence before me to suggest that the peak congestion experienced in this area is such as would warrant a restriction of development on zoned residential land within the Dublin City and Suburbs area at a

time of a housing crisis which national and local policy is seeking to address. The results of the submitted TTA do not indicate significant traffic arising from this proposed development or significant impacts on the capacity of the existing street network.

Ability to integrate into/enhance the character and public realm of the area

- 10.5.14. Point two of the Section 3.2 criteria in the guidelines, at the scale of the relevant city/town, relates to the scale of the development and its ability to integrate into/enhance the character and public realm of the area.
- 10.5.15. A Townscape and Visual Impact Assessment has been submitted, as required, in addition to photomontages/CGIs, an Architectural Design Statement, and associated architectural drawings. I note there are no protected views in the area of the site, there are no protected structures on the site or in the immediate surrounds and no features of archaeological interest on the site. The site is influenced by its context as an infill and backland site to the existing street of Fassaugh Avenue, and neighbouring low scale two storey housing to the east, with the railway line at a lower level to the west. I have had regard to the character of the existing area and considered whether the proposed development would make a positive contribution to the character and public realm of the immediate and wider area.
- 10.5.16. This is a large serviceable site within an established urban setting, which in planning terms is currently underutilised. I acknowledge that the site is suitable for high density development and higher buildings, however, there is a significant increase in intensity of development proposed through a combination of the massing, design, and the height of this proposal, over what currently exists in the immediate area. I refer the Board to submitted architectural drawings of 'Proposed East Elevation' and 'Proposed West Elevation', in addition to CGIs and Verified Views document, specifically VVM9, VVM6 and VVM5. The Townscape and Visual Impact Assessment considers under VVM5 the susceptibility to change in the area of St. Attracta Road would be high, the magnitude of visual effects is considered Medium-High and the significance / quality of visual effects is Moderate-Significant / Neutral. With regard to VVM6, the sensitivity is considered High, the magnitude of change is considered High and 'the resulting significance / quality is Significant / Beneficial' as the Proposed Development will consolidate the edge of city character of the wider

area, introducing a new high quality development into the townscape that is positioned at an open and nodal position along Fassaugh Avenue'. With regard to VVM9, the sensitivity and susceptibility to visual change are both considered Medium-High, the magnitude of change is considered High and the resulting significance / quality is Significant / Beneficial, as it is stated the proposed development 'will become a new landmark' and introduce 'a new urban quality and high-quality residential architecture to this part of Cabra'. While I acknowledge the ratings applied in the assessment, I disagree with the findings of the 'significance of change' relating to these views. The main L shaped block has an overall length of 75.8m and the rear/northern block is c.27m in length, with the proposed design element of slatted screens visually appearing to connect the blocks, to give a combined overall length of c. 106m. The height at 23m (6 storeys) is maintained along the main body of the building, with set backs at upper levels. While the height is modulated at either end, it is not in my opinion, sufficiently modulated in height or form to break down the massing of the overall block and the design is unsuccessful in softening the visual impact. While the western side of the site is further from dwellings and is more influenced by the railway line, I nonetheless consider the massing, height and design of the western façade (which does not comprise a set back of the upper floors as on the eastern façade) would also not integrate successfully with the wider area and would be monolithic and overbearing in its form when viewed from the public realm.

10.5.20. While the applicant argues the use of materials in combination with the modulation of height breaks down the massing of the development, I do not consider this has been successfully achieved, with extensive use of render on both east and west elevations and the impact of one metal clad core on each elevation having in my opinion a minimal effect in terms of the breaking up of massing. I do not consider the use of 1.8m high slat wood screens to each of the eastern balconies (and northern side of those balconies) contributes to a rhythm which avoids a monolithic form, as suggested in the submitted Architectural Design Statement, but in my opinion results in an additional relatively solid element to the façade (depending on the angle from which it is viewed) which impacts on views out as well as views toward the block. I note that the drawings of the west elevation, which indicate in the main a render finish, are not similarly reflected in the CGIs which show large areas of

brick. I am assessing the proposal on the basis of the materials stated on the drawings and submitted documents, and not the CGIs. I have concerns in relation to maintenance requirements and quality of material finishes given the extensive use of render across the east and west elevations and use of vertical slat wooden screens to individual balconies/deck to the east. I note the Building Lifecycle Report does not include the wooden finish to the balconies in its assessment.

10.5.21. The applicant states that the Urban Development and Building Heights Guidelines for Planning Authorities (2018) encourages increased building heights and whilst I agree in principle, Section 3.2 of the Guidelines sets out that increased building height should successfully integrate into/ enhance the character and public realm of the area. Overall, I consider the proposed development would not integrate into/enhance the character of the area. I consider the design and staggered height of the block at the Fassaugh Avenue end/adjoining the public plaza when viewed front on from the street would be successful in addressing the street, however, the view of the block in its entirety when view from the public realm to the east and west would be monolithic and overbearing. The proposal would have some urban design benefits in that it provides for a south facing open space area adjoining Fassaugh Avenue, which has a depth from the near edge of the footpath to the façade of the block of 8-13m, with provision for bicycle spaces, public seating and tree planting, albeit I consider greater detail in relation to the layout and use of this public space would be required to ensure it contributes positively to the public realm and becomes a quality urban space.

10.5.24. For further assessment of the impact of the development on the amenity of immediately neighbouring residential properties to the east, I refer the Board to section 10.7 hereunder.

#### Contribution of the site to place-making

10.5.25. The guidelines state a proposed development should make a positive contribution to place-making and delivery of new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.



10.5.26. The internal layout of open spaces and pathways around the scheme is overall positive, including the location of a resident amenity room/gym at ground level adjoining the proposed external open space to the north of the site. While there are windows on the first floor level overlooking the open space, there is a lack of windows presented in the northern elevation of the northern four storey block, which would improve the light to some apartments and perceived passive surveillance of the open space (I refer the Board to CGI 1, albeit I note the CGIs do not accurately reflect windows indicated on floor plans in all instances).

10.5.27. As mentioned above I consider the proposal will have limited urban design benefits in that it provides for a south facing plaza and replaces a poor existing urban edge, however as discussed above, the proposal when viewed from the surrounding area due to its massing and height and lack of variety in scale and form, does not in my opinion adequately respond to the context of adjoining developments or contribute significantly to place making.

### **Section 3.2 Criteria: At the Scale of District/Neighbourhood/Street**

10.5.28. The bullet points under this section of the Building Height Guidelines relate to how the proposal responds to the overall natural and built environment and contribution to the urban neighbourhood and streetscape; whether the proposal is monolithic in form; whether the proposal enhances the urban design of public spaces in terms of enhancing a sense of scale and enclosure; issue of legibility through the site or wider urban area and integration with the wider area; contribution to building/dwelling typologies available in the neighbourhood.

10.5.29. As noted above, an active edge is proposed to Fassaugh Avenue, with a public open space at the interface with the street, which is positive; I refer the Board to VVM8 of the submitted CGI and Verified Views document. The submitted Architectural Design Statement refers to other modern developments proximate to the site, specifically Hamilton Gardens which is under construction (8 storeys in part). I note that while the submission considers the proposal reflects that of Hamilton Gardens by stepping up in height along the railway line, I consider the context and scale of the sites to be very different and in terms of levels and location their potential impacts are also different. I note that despite the submission's reference to Hamilton Gardens, the submitted VVMs do not encapsulate a view

which incorporates the Hamilton Gardens site relative to this site, but submits views only from within a stated 300m radius and so its impact from the wider neighbourhood has not in my opinion been fully demonstrated. A more refined infill development would in my opinion be more appropriate at this location, with a greater breakdown of scale and form of the block/s, including the building depths and width of frontage, and further consideration of building height and materials, to integrate more successfully.

10.5.30. I acknowledge the sensitivities of considering any new structure on an infill and back land site bounding the rear of existing dwellings and the delicate balance between protecting the character of the area and allowing appropriately scaled development on a well serviced zoned site, acknowledging that land is a finite resource. I have assessed the proposal against the existing context and I am not satisfied that the design, scale and massing of the proposal responds appropriately to the existing built environment, neighbourhood or street, and the design and form of the proposed buildings will not, in my opinion, contribute to the urban neighbourhood and streetscape. While a move away from traditional two storey development formats can contribute positively to the architectural interest of an area, in this instance I consider the design and layout has not achieved this balance of moving forward through consolidated higher densities, while respecting the existing character of the area.

10.5.31. In terms of how the development responds to the overall natural environment, I have assessed the impact on the biodiversity value of the site and the landscaping strategy put forward by the applicant (see also section 10.8). I am satisfied that the proposal will not detract from existing biodiversity given the low ecological value of the existing site. The proposed landscaping plan and use of green roofs would contribute positively to biodiversity.

### **Section 3.2 Criteria: At the scale of site/building**

10.5.32. As per the Building Height Guidelines, 'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light'. I have considered in more detail elsewhere in this report the impact of height on residential amenity of future residents as well as neighbouring properties, including

issues such as daylight, overshadowing, loss of light, views and privacy (see Sections 10.6 and 10.7 hereunder) and I have concerns in this regard which are expanded upon later in this report.

### **Section 3.2 Criteria: Specific Assessments**

10.5.33. A number of specific assessments have been undertaken and submitted with this application, specifically a Microclimate Assessment, Daylight Sunlight Shadow Report, Noise & Vibration Impact Assessment, and a Bat Assessment. There are no sensitivities associated with the site in terms of built heritage and an EIA Screening Statement and AA Screening have been submitted as part of the application documentation. The microclimate analysis submitted concluded there would be no significant effects with regard to microclimate with a relatively minor increase in wind-speed at roof terrace and balcony level. No telecommunication channels of importance were identified in close proximity to the subject site. I assess in more detail results of the reports submitted, namely Daylight Sunlight Shadow Report, Noise & Vibration Impact Assessment and Bat Assessment, elsewhere in this report. I am satisfied that adequate information has been submitted to enable me to undertake an assessment of the impact of the proposed development and consideration of these reports is examined elsewhere in this report as appropriate.

### **Conclusion**

10.5.34. I consider the proposed development, by virtue of the design, height, scale and massing would be out of character with the context of the site and would be contrary to Section 3.2 of the Building Height Guidelines for Planning Authorities which aims to ensure that the highest standards of urban design, architectural quality and place making outcomes are achieved at the scale of the relevant city/town and at the neighbourhood/street as well as at the scale of the site/building. The proposed development would in terms of height, massing and design be an incongruous insertion at this location. The development should be refused for this reason.

## **10.6. Quality and Residential Amenity of Proposed Development**

10.6.1. Chapter 5 of the Apartment Guidelines for Planning Authorities, 2020 defines 'build to rent' development as 'Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord'. It is recognised that this type of

housing development has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. It is envisaged that such purpose-built development would comprise higher density urban apartment schemes, to enable the delivery of viable long-term residential accommodation for rental purposes, and in particular to provide housing solutions for those for whom home-ownership may not be a priority or needed in their particular circumstances. It is a further requirement of the Apartment Guidelines that any such build-to-rent development remains owned and operated by an institutional entity, and that this status will continue to apply for a minimum period of not less than 15 years. The Guidelines also specify that no individual residential units may be sold or rented separately, during that period.

10.6.2. While some observers consider it inappropriate that this entire development is a Build to Rent scheme and concern is raised in relation to over concentration of such development types in this area, I would highlight the application site is located within the area identified as the Dublin Metropolitan Area in the RSES. Dublin City and Suburbs accounts for about half of the Region's population or a quarter of the national population, as well as being the largest economic contributor in the state. The site is located within a village in this area and is accessible to a range of services and amenities, the site is highly accessible by Luas and bus, overall being well connected to a large range of employers within a short commuting distance. I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. I have considered the concerns raised in the submissions received, however I am of the opinion that the proposal will provide a viable housing solution to households where home-ownership may not be a priority and in an area where the main housing provision is private family type two storey dwellings. Concerns raised in submissions in relation to the negative impact of Build to Rent developments on established communities is not substantiated and such a scheme will not necessarily attract a transient population. I note the applicant has submitted a BTR Management Plan and I have no reason to believe there will be significant issues with the long-term management of the development. I consider that the proposed Build to Rent accommodation overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as

set out in various policy documents, including inter alia Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

#### Design Standards for New Apartments

10.6.3. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply.

Schedules were submitted to demonstrate compliance with the standards. SPPR7 and SPPR8 relates to Build to Rent schemes and are applicable to this scheme which has been advertised in accordance with the legislation as a BTR scheme.

10.6.4. The Housing Quality Assessment (HQA) sets out an assessment of the floor areas against the requirements of SPPR3 and Appendix 1 of the Apartment Guidelines. It is noted in the submitted HQA that five apartments do not have private amenity space but have what is described as an ‘internal wintergarden’ which is in essence an extended corner to the living room, with a high level narrow window (I refer the Board to drawing labelled ‘1.50 Unit Types’ and Apartment Type G). The floor area of these one bed apartments is 54.5sqm (required area is 45 sqm), with the normal private amenity space required for a one bed unit 5sqm. SPPR8, however, states in relation to BTR schemes that

‘(ii)Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity’.

10.6.5. The applicant argues that ‘in addition to the internal winter gardens provided, the scheme provides a large quantum of communal support facilities and amenities...The communal open space provision is more than twice the minimum requirement. Furthermore, we note that internal communal amenity space (402 sq m) will also be provided’.

10.6.6. I note that the scale of the internal communal support facilities and amenities is satisfactory, albeit the design is not – this is discussed further hereunder. I consider the ‘wintergarden’ description of private amenity space provision misleading and poor in terms of design for what a winter garden is required for. I consider this design solution, which is stated to avoid overlooking of the Lanigan site, is a poor design solution to an issue which in my opinion is arising due to the proximity of this block to the neighbouring site and the internal layout of the block as opposed to specific site constraints. Nonetheless, SPPR8 allows for flexibility in relation to private amenity space subject to compensatory communal support facilities and the proposal is therefore in compliance with SPPR8 and the Apartment Guidelines.

10.6.7. The submitted HQA identifies that 5 apartments are below the required 13sqm area for a bedroom. The Apartment Guidelines state 2 bed 3 person units should have a double bedroom size of 13sqm and single bedroom size of 7.1sqm to give a required aggregate bedroom floor area of 20.1sqm. The bedroom size proposed for the double bedroom in this instance is 12.4sqm and for the single bedroom is also 12.4sqm (I refer the Board to drawing ‘1.50 unit types’ and apartment type C), which gives an aggregate of 24.8sqm, with the double bedroom being smaller than the required size. The applicant notes that, as per the Apartment Guidelines, the overall apartment size is greater than 64.5sqm, with the minimum being 63sqm for this apartment type, and the guidelines state a ‘Variation of up to 5% can be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas’. A 5% variation of the bedroom size would be 12.35sqm, therefore the proposal is marginally below the required area, however, if rounded up to 12.4%, which the applicant has done in the material contravention statement, then it is in compliance. The applicant has included this issue in the material contravention statement as non-compliance with development plan standards (see section 10.12 hereunder), but in compliance with national standards. I consider this is not a material contravention issue and the apartment size and aggregate areas are in compliance with national standards. The CE Report does not raise this as an issue in its assessment.

10.6.8. SPPR4 relates to dual aspect. The apartment guidelines state that ‘It is a stated policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites

near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments'. The CE Report states the figure of 50% dual aspect units should be provided for and not that of 33% given there are no particular site constraints. The CE Report also questions whether all apartments identified as dual aspect are true dual aspect apartments. Having regard to the apartment guidelines in relation to dual aspect units and SPPR4, I concur with the planning authority that given the specific characteristics of the site, where only a limited portion of the block relates to street frontage, that 50% of the units should be dual aspect. I assess hereunder the quality of the labelled dual aspect units.

10.6.9. The proposed L shaped block is divided centrally by a long corridor, on either side of which are single aspect units, some of which are identified as dual aspect given their positioning/design. The front section of the block facing Fassagh Avenue has a 15m long central corridor. It is indicated in the Housing Quality Assessment that 54% of the apartments are dual aspect units (63 units) and 46% are single aspect units, none of which are solely north facing. I would, similar to the PA, question the dual aspect nature of some apartments where the outlook from the secondary aspect is quite limited given the layout and design, namely units 1.05, 1.10, 1.11, 1.13 and those equivalent units on the two floors above; units 4.05, 4.10, 4.11 and unit 5.10. I note the PA considers some additional units are not dual aspect and some are. I consider the Apartment Guidelines in assessing this issue and note they state as follows 'Dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible. Ultimately, the daylighting and orientation of living spaces is the most important objective'. I consider the units I have identified should be omitted from the dual aspect calculations, which would result in 40% of the units being considered dual aspect, which is below the requirement of 50% identified in SPPR4.

10.6.10. I consider here further the quality of the layout of the floors within the main L shape block and therefore the overall quality of the internal layout. The Apartment Guidelines state under Section 4.4 'Within apartment buildings, hallways...should be

well lit, with some natural light, where possible and adequate ventilation. Movement about the apartment building should be easily understandable by all users by keeping internal corridors short with good visibility along their length'. The L shaped block has long centralised corridors which have little to no natural daylight. The longest stretch of corridor, with no natural light available to it, is 41.48m long on floors 1-4, with this connecting to the north-south corridor in the front section of the block which is 15m long and which also has no access to natural daylight. I consider the internal layout in this regard to be of poor quality and contrary to the intended high-quality outcomes sought in the Apartment Guidelines.

10.6.11. I have concerns in relation to the balcony design and quality of private amenity space. The Design Statement and drawings submitted indicate balcony screening to those balconies on the east elevation of 1.8m high slat wooden screens to 'prevent overlooking' with the northern aspect of these balconies also comprising wooden slats for screening. A similar treatment is proposed to the deck access to the northern block. The CE Report considers the attempt to resolve the overlooking issue with 1.8m high slat balconies has resulted in a solution which reduces residential amenity standards for those apartments in terms of outlook and consequent reduction in daylight and sunlight. I concur with the PA that the proposed slatted screens to the balconies at 1.8m high, and the screens on the northern side of these balconies, in addition to the slatted screen to the deck at the northern block, drastically reduces the outlook and consequent residential amenity for future occupants. I consider this to be a poor design solution to address the issue of overlooking. The visual impact of the eastern elevation also results in my opinion in a reduction of passive surveillance of open space at the lower levels within the scheme by the proposal of such high slats, as well as a deadening of the elevation when viewed from the east.

10.6.12. The Apartment Guidelines states balconies should adjoin and have a functional relationship with the main living areas of the apartment. It is stated that it is preferable that balconies would be primarily accessed from living rooms, although larger apartments may include wrap around and/or secondary balconies. With regard to the positioning of balconies, I note that they are located with an access from the living room of the apartments, but a number of the balconies on the eastern elevation are positioned so that the main area is located outside bedroom windows,



notwithstanding the access is off the living room. I refer the Board to the submitted drawing labelled Proposed Typical GA Level 01-03 and specifically apartments 1.16, 1.17, and 1.18. There are also cases on levels 4, 5, and 6, with a smaller number on the western elevation. I note the Sunlight Daylight Shadow Report indicates balconies have been offset to maximise daylight, however, this would appear to me to be required as a consequence of the block design and the wooden slat screening to the balconies. I do not consider the design and layout of the balconies would result in high quality private amenity space for future occupants.

- 10.6.13. In terms of overlooking between apartments, I note specifically the c.3m separation distance between the two proposed blocks, with directly opposing windows of a living room in one apartment opposite a bedroom in another. I refer the Board to apartments 1.13 and 1.20, and the relevant apartments on the floors above and Section/Elevation EE on the submitted drawing FAS-BDP-A-PL-20-3201. I also refer the Board to apartments 1.11 and 1.10 which also have opposing living room windows. The design does not attempt to off-set such windows or mitigate potential for significant overlooking between the apartments.
- 10.6.14. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.
- 10.6.15. In compliance with SPPR7(a) the proposed development has been advertised as a BTR scheme. A draft legal covenant is submitted as part of the application which confirms that, the proposed Build to Rent scheme will remain in the ownership of an appointed Build to Rent company, who will manage the operation of the scheme, for a minimum period of not less than 15 years. No individual residential units will be sold or rented separately by the company during that period and the applicant accepts that this will be controlled by a condition of planning.
- 10.6.16. In accordance with SPPR8(v), the requirement for a maximum of 12 apartments per floor per core (required by SPPR6) shall not apply to BTR schemes. I note there are 19 apartments served by two lift-stair cores in the L shaped block. The northern block has no lift and is accessed via an external stair with deck access to the apartments.
- 10.6.17. Under SPPR8 there is a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations

and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. The proposed BTR scheme provides 23 no. car parking spaces at basement level for the residential units, of which 3 are car club spaces. This results in a car parking ratio of c. 0.2 spaces per residential unit within the scheme. The documentation submitted with the application which considers this issue further includes a Traffic and Transport Assessment Report, Residential Travel Plan, and Car Parking Management Strategy. I consider the reduced provision of parking to be acceptable and in accordance with SPPR8. The CE Report raises no issue in this regard. The implications of a reduced provision are assessed further under Section 10.10 hereunder.

- 10.6.18. A Building Lifecycle Report has been submitted, as required by the guidelines. However, I note inconsistencies in the materials on the drawings and CGIs and those detailed in the report.

#### Communal Open Space

- 10.6.19. The quantum of external communal amenity space required for the development, as per the Apartment Guidelines (notwithstanding SPPR8 allows for flexibility), would equate to 680sqm. The scale of communal space is in excess of that required, being a stated 1754sqm in area at surface level, with 102qm provided in a roof garden on the 6<sup>th</sup> floor and 208sqm in a roof garden on the 7<sup>th</sup> floor. I consider this acceptable. As discussed elsewhere, should the Board be minded to grant permission, I consider a condition to limit the use of the roof top space to 22.00pm would be warranted in the interests of protecting adjoining residential dwellings from undue noise.

#### Build to Rent Amenities

- 10.6.20. SPPR 8 sets out that no restrictions on dwelling mix apply to BTR developments, and flexibility in terms of storage, private amenity space, and communal amenity space applies, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.
- 10.6.21. As per the Apartment Guidelines 2020, the provision of dedicated amenities and facilities specifically for residents is a characteristic element of build to rent schemes. It is stated in the guidelines that there are a range of potential facilities that

may be provided in conjunction with BTR, such as dedicated laundry facilities, communal leisure areas, gym, workspaces/hotdesks, concierge service, etc. Facilities may also include private dining rooms, kitchen areas, office spaces, TV/lounge rooms, etc. that can be booked on occasion by individual residents for their own use.

10.6.22. Under Specific Planning Policy Requirement 7, a BTR development must be:

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

10.6.23. The CE Report considers the level of residential services and amenities (402sqm) to be inadequate, equating to an area of c. 1.5sqm per bedspace. It is further stated that the onus is on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity. The CE Report notes that while guidance on the quantum of such amenities is not provided for in the Apartment Guidelines, the PA is of the view that the minimum figure commonly used is 2 sqm per bedspace (varying from 2-4 sqm depending on the scheme and the quality of the spaces together with the quality of the external amenity spaces). The CE Report considers the scheme is grossly underprovided in this aspect. The CE Report states the PA is wholly unsatisfied with the level and diversity of residents support and service and amenity facilities proposed and does not consider the requirements of SPPR 7 to be fulfilled, and permission should be refused on this basis.

10.6.24. The applicant under Section 5.6 of the submitted Architectural Design Statement sets out the applicant's proposals in relation to supporting communal and recreational amenities to be provided as part of the development:

- Residential Support Facilities (00 level and Basement Level) of 299 sqm:
  - Concierge (30 sq.m.)
  - Reception + Post Room (32 sq.m.)
  - Bicycle Storage (118 sq.m.)
  - Electric Bike lockers (21 sq.m.) management and repair (37 sq.m.)
  - Residential Bin Store (61 sq.m.)
- Residential Internal Amenity Spaces (Level 00) of 402sqm:
  - Gym (100 sq.m.)
  - TV Lounge (234 sq.m.)
  - Function room (33 sq.m.)
  - Work area (35 sq.m.)

10.6.25. The total area of 'resident services and amenities' facilities for this 117 unit apartment scheme is 402sqm, which equates to 3.43sqm per unit. I note the PA calculates it on the basis of bedspace. The Apartment Guidelines do not specify the ideal quantum for a BTR scheme. I have examined the proposal on the basis of the quality as well as the scale of facilities. I consider the scale of the TV/lounge room is excessive for such a function, with a relatively small area dedicated to a function room and to a work area. I consider the applicant has not adequately provided for high quality services and amenities which would function in a more practical way for future residents, as envisaged in the Apartment Guidelines. I consider the quantum of space identified satisfactory but not the design/layout/intended use of the spaces. This is an issue which could be addressed by condition should the Board be minded to grant permission.

#### Sunlight Daylight

10.6.26. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be

carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 209 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

10.6.27. The applicant has submitted a Daylight, Sunlight and Shadow Report, dated 15<sup>th</sup> February 2022, section 3 and 4 of which outlines the guidelines and standards used and the methodology applied. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the BRE Report "Site Layout Planning for Daylight and Sunlight"; and British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting. I note British Standard BS 8206-2:2008 has been updated, however, the updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.

10.6.28. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state that although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards therefore described in

the guidelines are one of a number of matters to be considered in a balanced and holistic approach to assessment of the site context and building design.

10.6.29. I confirm that I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting).

10.6.30. I assess hereunder the impact on daylight in relation to the internal layout of the scheme and the units. I have assessed potential impacts on neighbouring properties separately and I refer the Board to Section 10.7 of this report hereunder.

#### Daylight - Internal to the Proposed Buildings

10.6.31. The CE Report states that the PA has analysed the results and notes that unfortunately the results are set out in tabulated form only with no accompanying daylight diagrams to allow for a thorough assessment of the extent of daylight penetration, the identification of rooms and also to allow for a better understanding on a significant variance in results noted between what appear to be very similar rooms e.g. L1.07 (Kitchen /Living) achieves an ADF result of 1.7% while a very similar room with identical layout i.e. L1.09 achieves a result of 2.3%. The CE Report states that a 7% failure rate is unfortunate and is partially down to the applicant's attempts to minimise excessive overlooking of the adjoining residential development along Saint Attracta Road to the east and to the high number of single-aspect units. The PA considers that the only acceptable compensatory measure would be the over-provision of communal amenity space however much of the space is at rooftop level which the PA would object to and omit as it would have significant negative impacts on residential amenities of properties along Saint Attracta Road.

10.6.32. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylight

living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

10.6.33. The submitted Daylight, Sunlight and Shadow Report examines all bedrooms and combined kitchen/living spaces across the proposed development on all levels. For combined kitchen/living areas a 2% ADF value is applied and for bedrooms a 1% ADF value is applied. I consider the values applied to be appropriate.

10.6.34. 265 of the 284 rooms assessed (93.3%) met or exceeded the recommended ADF standard. 19 of the 117 apartments have combined kitchen/living rooms with ADF values which fall below the 2% ADF value, of which 5 apartments have kitchen/living rooms with an ADF value below 1.50%. Apartment number L1.15 and apartment above L2.15 and apartment L1.19 and equivalent apartment above L2.19 have ADF values for kitchen/living areas of 1.40%. At level 3 the equivalent apartment of L3.15 has a lower kitchen/living area ADF of 1.30%, while L3.19 has an improved ADF value for the kitchen/living area of 2%. Apartment L4.15 on level 3 (4<sup>th</sup> storey) has a kitchen/living ADF value of 1.70% (there is no apartment above this) and L4.19 has a value of 2.10% and the apartment above on the 6<sup>th</sup> storey has an ADF of 2.00%. All other apartments (14 number) which have kitchen/living room ADF values of below 2%, have values ranging between 1.50% and 2%. I note all bedrooms across the scheme meet the recommended 1% ADF value.

10.6.35. By way of rationale and compensatory design solutions, it is stated under Section 9 of the submitted report that the apartments which have combined kitchen/living areas achieving a range of 1.4% to 1.9% ADF are all east facing ‘...and require wooden slats to prevent overlooking which makes it difficult to achieve the daylight criteria. The balconies must be accessible from the kitchen/living area which limits the ability to stagger balconies across floors...’. The apartments which have kitchen/living rooms with a particularly low ADF value below 1.5% are limited to 5 in number (with 19 in total below 2%). I note the positioning of the balconies with high level screen across the block has an impact, overall, on the ADF values achieved in combined kitchen/living rooms as well as bedrooms. Those apartments with balconies directly serving the kitchen/living areas having low ADFs and those which meet the ADF value appear to do so because the balconies have been staggered to such a degree that they sit mainly outside the bedroom windows instead of the

combined kitchen/living room windows. I do not consider this design solution alongside the provision of a 1.8m high wooden slat screen to balconies is an appropriate solution in delivering high quality units for future occupants, given the impact overall on daylight and wider issues with this design approach in terms of outlook for future occupants, quality of the private amenity space, as well as the visual impact, which are considered elsewhere in this report. I consider the daylight standards achieved substandard and the compensatory solutions given by the applicant of additional communal amenity space available to residents is not in my opinion satisfactory.

10.6.36. With regard to the south facing apartments which have kitchen/living areas achieving a range of 1.8% to 1.9% ADF, these are stated by the applicant to have considerable depth which makes achieving the 2% ADF challenging, and it is stated that 'additional daylight within the bedroom space partially compensates for the reduction in daylight within the living spaces'. I do not consider improved light to bedrooms an adequate compensatory measure as the guidelines specifically highlight the importance of daylight to living spaces, however, I note the apartments in question are limited in number and the non-compliance is marginal. When assessed against the benefits of having south facing units which also address the public realm and provide a better urban edge to the street at this location, the design rationale is acceptable.

10.6.37. With regard to west facing apartments which have kitchen/living areas achieving a range of 1.5% to 1.9% ADF versus 2.0% ADF recommended, the applicant similarly states these apartments have considerable depth which makes achieving the 2% ADF challenging, and additional daylight within the bedroom space partially compensates for the reduction in daylight within the living spaces. Additional compensatory measures are stated to involve the provision of external community amenity areas and roof gardens above the minimum requirement. It would appear lower ADF values to the kitchen/living rooms in certain apartments is as a result of the positioning of the balconies mainly in front of bedrooms instead of kitchen/living rooms. I do not consider this an adequate design response to the issue of daylight arising and a more holistic design approach would achieve better results.

#### Sunlight in Proposed Outdoor Amenity Areas



- 10.6.38. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of a garden or amenity area should receive at least two hours of sunlight on 21st March, in order to appear adequately sunlit throughout the year.
- 10.6.39. The PA notes that the term 'daylight' is used in place of 'sunlight' in many sections of the study submitted. The PA acknowledges that this would appear to be an error, however they consider this unfortunate when the element of analysis is the fundamentally important issue of sunlight. The planning authority is satisfied that the communal spaces would receive more than adequate levels of sunlight.
- 10.6.40. While concerns are raised by the PA in relation to errors in terminology, I note over 95% of the ground level amenity areas achieving more than 2 hours of communal open space and the rooftop spaces are also found to achieve considerably higher than recommended minimum targets. All meet BRE guidance in relation to sunlight in amenity areas.

#### Sunlight-Daylight Conclusion

- 10.6.41. In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I have considered the design and layout of the development alongside relevant sunlight and daylighting factors. While the percentage compliance in terms of ADF value is 93%, I consider certain design solutions employed to achieve this (discussed above) will have a negative impact on the quality of residential amenity for future occupants. I accept that the site is underutilised in planning terms and is at a highly accessible location which is well serviced, however, I consider the design of the apartments and associated balconies results in a substandard impact on daylight to a number of apartments which are not adequately compensated for in the design of the scheme and design elements applied to achieve the BRE standards are not acceptable. Overall the issues arising are in my opinion a result of overdevelopment of the site. I consider the proposal should be refused for this reason.

## Noise Assessment

- 10.6.42. A Noise and Vibration Impact Assessment has been submitted. A baseline noise and vibration survey was undertaken, with particular regard to the adjoining railway line as well as noise from the road. The construction and operational phase impacts in terms of noise and vibration are considered.
- 10.6.43. In terms of the operational phase, the site is categorised as Low to high Risk and An Acoustic Design Strategy accompanies the report. Mitigation in the form of higher specification glazing and ventilation elements to include internal baffles and acoustic insulation are proposed along the western and southern facades to achieve good acoustic performance. I consider a condition would be warranted to agree details with the PA, should the Board be minded to grant permission. Roof top outdoor spaces have been considered in terms of noise generation from people using the space at the upper levels. The predicted noise level is 50dbL<sub>aeq</sub>1hr during the day and it is stated that the rooftop terraces will not be open to residents during the nighttime hours of 23:00hrs to 07:00hours. Noise management measures are set out in section 7.1 of the submitted report.
- 10.6.44. In terms of construction noise, noise sensitive locations are identified, including Lanigans Funeral Directors (2.5m from the southern site boundary), houses on St. Attracta Road, and houses at Fassagh Avenue to the west. Vibration levels during piling have been considered and vibration levels at adjoining buildings are not expected to pose cosmetic or structural damage. Section 5.5 of the submitted report sets out construction mitigation measures.

## Unit Mix

- 10.6.45. This BTR scheme proposes 57% 1 bed units, 4% 2 bed 3 person and 39% 2 bed 4 person. The development plan allows for up to 50% of residential units to be one bed. The CE Report considers the unit mix to be in contravention of the development plan. The CE Report states 'the lack of 3-bed, family-friendly apartments in the scheme is regrettable in an area dominated by 2-bed housing, despite the applicant's statement that 3-bed houses dominate in the area. A more balanced mix, including the provision of 3-bedroomed apartment dwellings, would improve the quality of the scheme and be welcomed by the planning authority. However, the option is not available to request same'.

10.6.46. The Apartment Guidelines state under SPPR 8(i) 'No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise'. The proposed unit mix is therefore acceptable in the context of national policy. I consider further the issue of material contravention under Section 10.12. I do not consider a material contravention issue arises and I note that while the CE report states the proposal is in contravention of the plan, it does not state that a material contravention applies.

### 10.7. Impact on Amenity of Neighbouring Properties

10.7.1. Concerns are raised by neighbouring residents, in particular those from Saint Attracta Road, in relation to loss of light, overshadowing, overlooking, privacy and amenity, health and safety concerns, and noise pollution as a result of the proposed development.

10.7.2. The CE Report raises concerns in relation to the impact of the proposed development on the neighbouring properties on Saint Attracta Road, stating 'Of most concern to the PA with regard to height is: (i) The proposed relationship between the existing two-storey dwellings along Saint Attracta Road in terms of overlooking, overbearance and impact on outlook on these established properties; (ii) The visual impact of the development as viewed from majority of surrounding viewpoints in the vicinity including from in particular Saint Attracta Road, Fassaugh Avenue'. Refusal is recommend in the CE Report given that '...the proposed development does not successfully integrate with established residential development in the vicinity and constitutes overdevelopment of the site by reason of its excessive height, unrelieved and excessive length, monolithic design, the provision of roof-top amenity spaces, and proximity to the private residential gardens along Saint Attracta Road and Lanigan's Funeral Home site. The development as proposed would depreciate property values and prove to be seriously injurious to established residential development in the area by way of overbearing impact and excessive overlooking of private gardens...'.

10.7.3. In addressing the issues raised, I have examined the impacts of the development in terms of sunlight, daylight and overshadowing, overlooking, overbearance, and overall impact on residential amenity. I refer the Board also to Section 10.5 above in relation to visual impacts.

### Daylight – Vertical Sky Component (VSC)

- 10.7.4. In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms.
- 10.7.5. Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are as noted in the BRE Guidelines:
- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
  - ii. Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)
  - iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)
  - iv. Is the VSC less than 0.8 the value of before? (ie. if 'yes' test 5 required)
  - v. In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)
- 10.7.6. The above noted tests/checklist are outlined in Figure 20 of the BRE Guidelines, and it should be noted that they are to be used as a general guide. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there is likely to be instances where judgement and balance of considerations apply.
- 10.7.7. The neighbouring properties that were assessed in the submitted Daylight, Sunlight and Shadow Report with regard to VSC are: 36-42 Bannow Road; 28-34 Bannow Road; 20-26 Bannow Road; 12-18 Bannow Road; 4-10 Bannow Road; 2 Bannow Road; 2-4 Fassaugh Avenue; 317-335 St Attracta Road; 305-315 St Attracta Road; 287-303 St Attracta Road; and 275-285 St Attracta Road. These properties are assessed in groups as labelled on page 6 of the submitted Daylight, Sunlight and Shadow Report.
- 10.7.8. All the properties on Bannow Road and Fassaugh Avenue meet the BRE guidance. The properties on St. Attracta Road were assessed in more detail. Of the 31

dwellings assessed, 13 meet BRE guidance in relation to VSC post development (6 of these 13 are located to rear of where open space on site is proposed; 4 are to the rear of the proposed two storey element and hence meet guidance due to the lower height; and three are to the east of Lanigans Funeral Home, affected mostly by that development).

10.7.9. With regard to no.s 317-335 St. Attracta Road, each of the rear windows of these 10 houses were assessed. The proposed development rises to six storeys to the rear of these properties, with the seventh floor set further back from the eastern boundary. Two houses, no. 317 and no. 319, do not meet BRE guidance, being below the recommended 27% VSC, with values of 25% and 26%, in addition to the two windows in each property being 0.68/0.71 and 0.77/0.73 their former value (recommended being 0.8). One window of the two assessed in each of the five other houses (no. 321, 323, 325, 327 and 329) also falls below the BRE guidance, with values ranging from 0.71-0.79 the former value (0.8 being recommended). All windows in the three other houses no. 331, no. 333, and no. 335) meet the BRE guidance.

10.7.10. With regard to no. 305-315, each of the rear windows of these six properties was assessed. The proposed development is five storeys with sixth and seventh floor set backs to rear of no.s 305 and 307, and from 307-315 it rises to six storeys, with the seventh floor set back from the eastern boundary. 3 ground level windows at the rear of no. 305 fail to meet BRE guidance in terms of the 27% and 0.8 times the former value, being 23.5-25.3% and 0.71-0.75 the former value. The upper level window is in compliance. 1 window to the upper level at the rear of 307 was assessed and passed. I note no ground level windows were assessed for no.307, however it would appear from site inspection that a large ground level canopy extends over the ground level windows. 2 ground level windows assessed in no. 309 failed (the upper level window passed), having a VSC of 23.8 and ratio of 0.62/0.65. In no. 311 and 313, similarly the two windows at ground level in each property fail, having VSCs of c.21%-24% and ratios of 0.59-0.68. 3 ground level windows in no. 315 fail (the 1 upper window passes), having VSCs of 24.8/25.73/25.11 and ratios of 0.64-0.73-0.68. I note the submitted report does not apply a value to the figures presented, however, I would consider the non-compliance significant for these dwellings.

- 10.7.11. With regard to no.s 287-303, the four houses 287, 289, 291, and 293 meet the BRE guidance. I note the layout indicates the two storey element of the proposed development is to the rear of these properties.
- 10.7.12. The proposed building rises to four storeys to the rear of 295, 297, 299, 301 and 303 (part five storey to rear of 303), all of the ground floor windows fail (with exception of one) and all first floor windows pass. In terms of comparison to its former value (the recommended being 0.8) it ranges from 0.69-0.78 for no. 295; 0.75-0.78 for no. 297; 0.76 for no. 299; 0.75 for no. 297 and 0.75/0.76/0.79 for no. 301. While no rating is applied in the submitted document, I note the difference in values for this block is not as significant as that relating to terrace no.s 305-315, which can be attributed to the height of the proposed development and distances to the boundaries.
- 10.7.13. A total of 82 windows were assessed across neighbouring properties along St. Attracta Road. Of this, 30 windows were non-compliant, ie 37%, with 52 (63%) compliant). As noted previously the submitted document does not give a rating or rationale for non-compliance in relation to VSC values. I consider the level of non-compliance significant and while elements of the development along the sections with lower height have less of an impact, the main impact on dwellings 305-327 has not in my opinion been adequately addressed.

#### Sunlight Access Impacts - APSH

- 10.7.14. Annual Probable Sunlight Hours (APSH) is a measure of sunlight that a given window may expect to receive over the period of a year. The percentage of APSH that windows to existing properties receive might be affected by a proposed development. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed.
- 10.7.15. The BRE Report recommends that the centre of the window in a dwelling living space at a point 1.6m above floor level, should receive at least 25% of the APSH, including at least 5% of the APSH from 21st September to 21st March. A proposed development could possibly have a noticeable effect on the sunlight received by an existing window, if the following occurs:
- The APSH value drops below the annual (25%) or winter (5%) guidelines; and

- The APSH value is less than 0.8 times the baseline value; and
- There is a reduction of more than 4% to the annual APSH.

The following properties were assessed: 4-42 Bannow Road and 275-335 Attracta Road, with the dwellings assessed in groups/blocks and labelled as per page 6 of the submitted Daylight, Sunlight and Shadow Report. The submitted report indicates that the following dwellings did not meet BRE guidance: 321 St Attracta Road and 301 St. Attracta Road. I note at 321 St. Attracta Road, one of the two windows (ie the lower ground window) did not meet the criteria; and at 301 one of the four windows assessed (ie one lower ground window) did not meet the criteria. The report states the dwellings to the east of the site 'have abnormally high access to sunlight in the existing context for a residential environment (as the site at present is predominately vacant to the rear of the derelict pub structure). It should also be noted that any development of significant scale on this site would have an impact on the sunlight hours given the proximity and orientation to the proposed site'.

#### Sunlight on Amenity Space of Neighbouring Properties and Overshadowing

10.7.16. The submitted Daylight, Sunlight and Shadow Report assesses the impact of the proposed development on sunlight to existing external amenity spaces and gardens of adjacent properties. The following gardens have been assessed: 36-42 Bannow Road; 28-34 Bannow Road; 20-26 Bannow Road; 12-18 Bannow Road; 4-10 Bannow Road; 2 Bannow Road; 2-4 Fassaugh Avenue; 317-335 St Attracta Road; 305-315 St Attracta Road; 287-303 St Attracta Road; and 275-285 St Attracta Road. Shadow plans are also provided. It is stated in the submitted report that as many properties contain bespoke extensions and sheds, for simplicity the original building line has been used for blocks A to D (those properties related to Bannow Road). For the more detailed modelling within blocks E to K, the modelling of the extensions and sheds has been included, ie blocks E to K relate to 2-4 Fassaugh Avenue; 317-335 St Attracta Road; 305-315 St Attracta Road; 287-303 St Attracta Road; and 275-285 St Attracta Road.

10.7.17. The BRE guidelines recommend that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March, or not less than 0.8 of its current situation, in order to appear adequately sunlit throughout the years. As for all tests, balance may be required to be applied.

10.7.18. The CE Report raises concern that sheds etc. to the rear of dwellings on St. Attracta Road are included in the baseline analysis referred to as the PA considers these are temporary in nature and could be removed, however, the overshadowing caused by the building proposed would be a permanent condition causing possible significant and detrimental impacts on residential amenities of dwellings adjacent. The PA considers the submitted study is poorly executed and presented and there is insufficient information to present conclusive recommendations on this issue.

10.7.19. The houses on St. Attracta Road are in the main 2 bedroom houses on narrow plots. I note the gardens to the rear are quite narrow and therefore limited, with widths of approx. 4.5-5m (except for end of terrace gardens which tend to be wider) with only slightly longer than average rear gardens at 14-15m (versus standard of 12). A number of garages/sheds have been constructed along the rear boundaries of dwellings, as well as a number of single storey extensions, with three properties appearing to have two storey extensions, and only 6 of 31 gardens having 2 hours of sunlight over 50% of their garden area. The BRE guidelines state that if an existing garden or outdoor space is already heavily obstructed then any further loss of sunlight should be kept to a minimum. It further states that 'In this poorly sunlit case, if as a result of new development the area which can receive two hours of direct sunlight on 21 March is reduced to less than 0.8 its former size, this loss is significant'. While the PA objects to the inclusion of sheds in the analysis, I consider the inclusion of sheds as well as extensions to be reasonable as they do exist and are reflective of the existing situation. The BRE guidance only allows for the exclusion of trees.

10.7.20. The submitted Daylight, Sunlight and Shadow Report states that 35 of 55 spaces do not receive two hours of daylight in at least 50% of their area in the current site. This is stated to be due to bespoke extensions and sheds which result in more shaded gardens. Post development it is stated that 15 of the 55 gardens will meet BRE guidance of two hours of sunlight, 5 of which are on St. Attracta Road and 10 are on Bannow Road. The table on page 52 and 53 of the submitted report sets out the results pre development and post development and also applies a ratio of the proposed change compared to the baseline, applying a standard of 0.8 the former value to the results. It can be seen that the effect on sunlight to existing amenity



space is limited given existing baseline figures, with the proposed development not reducing the value to below 0.8 in any instance.

The submitted Daylight, Sunlight and Shadow Report includes shadow diagrams from page 56 to 102. I note the shadow plans are difficult to read given the base colour of green used on the diagrams and general scale of images. However, given the orientation of the site relative to the path of the sun, I note the main impact on Bannow Road on 21<sup>st</sup> March is in the morning time from 8-9am and the main impact on St. Attracta Road on 21<sup>st</sup> March is in the evening time from 3-4pm. Given the orientation of the site, the impacts are limited to either end of the day.

#### Sunlight-Daylight Conclusion

10.7.21. I have used the Guidance documents referred to in the Ministerial Guidelines to assist in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical. I am not satisfied that the development proposed is in accordance with guidance documents and in my opinion the development will have a significant adverse effect on residential amenity of neighbouring properties. I consider the proposal should be refused for this reason.

#### Overlooking, Loss of Privacy, Overbearance

10.7.22. There are 25 residential properties to the east of the proposed building on St. Attracta Road, whose rear gardens back onto and share a boundary with the site. A portion of the houses back onto the existing funeral home (4 houses), with 6 houses backing onto what is labelled as unregistered land to the side and rear of the funeral home. 7 of the existing houses will be bounded by the proposed open space to the northern end of the site. 14 of the houses will have the proposed building to the rear of them. The dwellings on St. Attracta Road have rear garden depths of approx. 14.5-16m and are approx. 4/4.5m wide, with some shorter in instances where extensions have been constructed, and longer toward the northern end of the site where the open space is proposed.

10.7.23. The northern block, at four storeys high, is c. 10.4m-16.4m from the eastern boundary, with the access balcony/walkway reducing this distance to 8.6m-14m. There is an overall distance from the rear elevation of the two storey elevation of the dwellings to the proposed building of c.24m-34m, depending on location given the angle of the boundary and variation in rear garden depths. I refer the Board to Section 10.4 of this report also in relation to distances to boundaries and between elevations. Overall, having regard to the zoning of the site for residential development at this central location, with national policy supporting compact growth at such locations, I have no objection in principle to the four storey part of the block and do not consider significant overlooking or serious detracting of existing residential amenity would arise given the urban context of the site and the distances involved. However, I have serious concerns in relation to the six and seven storeys element of the block and proximity to neighbouring properties.

10.7.24. I note the proposed L shaped building is a maximum of seven storeys, with set-backs at six and seven storeys from the northern, southern and eastern half of the block. The Fassauga Avenue aspect is a full five storeys, with set-backs at six and seven storeys. In terms of proximity to the eastern boundary, as noted elsewhere in this report, the proposed L shaped building is c. 0.4m-1m from the boundary with the funeral home at its closest point (proposal is 6 storeys at this point); c.5-11m from the 'unregistered land' to the rear of the funeral home (proposed building is six storeys and partial seven storeys at this location); c. 26-34m from the elevation of the two storey dwellings where the proposal is a full six storeys (seventh storey set back); c. 28-31m where the proposed building is four storeys (northern block adjoining L shaped block); and 24-28m where proposed building (northern block) is two storeys. There are a number of single storey extensions which also reduce the proximity between the properties. There are balconies, living room and bedroom windows located across the eastern elevation of the proposed development. Open space is proposed to the rear of the two-storey properties no. 269-285.

10.7.25. The L shaped block comprises a centralised corridor off which are east and west facing single aspect units, therefore there are sitting room and bedroom windows along each of the eastern and western elevations. The overall height of the building is 24m. I have examined the separation distances between the proposed

block and the neighbouring properties on Saint Attracta Road and I refer the Board to the submitted Architectural Design Statement. The proposed building ranges in distance from the shared boundary, being 1m-7m-13m from the boundary with the existing funeral home; and ranging from 19.8m-14m-11m from the boundary with the existing dwellings. I do not consider the separation distances between the existing two storey dwellings on Saint Attracta Road are acceptable in all instances, given the scale and design of the proposed building, which is monolithic in form and would in my opinion be overbearing. While the northern building is reduced in height and more acceptable in scale, the combined design of the development would in my opinion be injurious to the residential amenity of existing dwellings.

#### Impact on Lanigans Funeral Home and undeveloped site to East

10.7.26. I note the development is located in part within 0.4m-1m of the boundary with Lanigans Funeral Home to the east, with high level windows on this elevation. I note the apartments located at this boundary have north and south facing windows also. The main block at the location of the 'unregistered land' to the rear of Lanigans Funeral Home is 5-7m from the boundary, with windows and balconies facing this land. The block is up to 6 storeys high at this location.

10.7.27. While the windows adjoining the boundary with Lanigans are at a high level and these apartments have other windows, the development at this boundary and at the boundary to the unregistered land to the rear is in my opinion overbearing given its proximity, and the proposal does not demonstrate how the development would future proof access to light to the single aspect units closest to this boundary should the adjoining site be developed. The applicant has made no concessions in the layout or design to minimise the over-reliance of the single-aspect apartments on the eastern side of the development to sunlight from the east. In addition to the proximity and overbearing form of development at this location, I am not satisfied that ample consideration has been given to the design of the proposed scheme and the potential impact on the development potential of the neighbouring sites in question to the east, which the form and layout of this proposal may affect the development potential of.

#### Traffic and Construction Impacts

10.7.28. Concerns raised in submissions in relation to the impact of traffic, noise and dust during construction on existing residential amenities is discussed hereunder in Section 10.10 hereunder.

## **10.8. Biodiversity / Ecology and Landscaping**

10.8.1. An Ecological Impact Assessment was submitted with the application, dated February 2022. Field surveys were undertaken on 9<sup>th</sup> September 2020. It is stated that the survey date is toward the end of the botanical survey period but considered adequate given the suburban nature of the site.

10.8.2. There are no water courses on the site and there is no direct connectivity to any European sites. The site is essentially comprised of the buildings and artificial surfaces (BL3) associated with the former Pub and extensive area of mounded spoil across the site which has become overgrown with rank grassland and tall herbs. There are no mature trees on the site and no trees of significant age or stature within or adjacent to the site. No invasive species were recorded on the site. No badger setts were observed and there is no potential for otters on this site. A bat assessment was undertaken and no roosts or areas of high value to feeding bats were detected. No light intolerant bats species were detected during survey work, however, mitigation in terms of lighting is proposed as a precaution and no significant impact is anticipated on commuting bats. Three bat boxes are proposed within the site. There are no predicted direct effects on bats as a result of the proposed development. There were no rare or Annex 1 bird species recorded on the site. The site is of low value for wintering birds given the suburban nature of the area and high levels of local disturbance. The site is not in proximity to sensitive bird and/or bat areas. The development area is generally of relatively Low Local Ecological Value.

10.8.3. Overall, I consider the timing of survey work and approach to the ecological impact assessment reasonable. I note the landscaping proposals contained within the proposal will improve the biodiversity of the area. I am generally satisfied in this regard.

## **10.9. Social Infrastructure Assessment and Childcare Analysis**

10.9.1. The applicant has submitted a Social Infrastructure Assessment. A Childcare Demand Analysis (CDA) has also been submitted.

- 10.9.2. The Childcare Facilities Guidelines for Planning Authorities recommends a minimum provision of 20 childcare places per 75 no. dwellings. I note that Section 4.7 of the 'Sustainable Urban Housing: Design Standards for New Apartments' states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area, with 1 bed or studio units generally not be considered to contribute to a requirement for any childcare provision. The development proposes 67 one bed units and 50 2 bed units. A childcare facility is not therefore required under the guidelines. The submitted Childcare Demand Analysis includes an audit of facilities in the area. A capacity of 11 childcare spaces was identified in the area, which is relatively low, however, respondents to the survey were low and I note that regardless, there is no requirement for the provision of a facility as part of this development.
- 10.9.3. I have reviewed the Social Infrastructure Audit Report submitted. A 15 minute walking distance forms the basis of the study area examined. Health facilities, primary schools (11 in the study area), post primary schools (4 in the study area), community services and facilities, sports and recreation facilities, and faith facilities are mapped. No social infrastructure deficits have been identified and the CE Report has raised no concerns in this regard. The area appears to be well serviced with access to a wide range of amenities and services in the area.

#### **10.10. Traffic, Transportation and Access**

- 10.10.1. The application has been accompanied by a Traffic and Transport Report, Mobility Management Plan, Car Parking Management Strategy, Residential Travel Plan, DMURS Statement of Consistency and Outline Construction Management Plan have been submitted with the application.
- 10.10.2. Many of the observer submissions received raise concerns regarding inadequate car parking provision, impacts of overspill parking onto adjoining roads, capacity of existing street network and level of existing traffic congestion.
- 10.10.3. The CE Report raises no issues in relation to capacity of existing road network, parking provision or public transport.

#### Traffic and Transport Assessment

- 10.10.4. The Traffic and Transport Assessment undertaken is based on TII's 'Traffic and Transportation Assessment Guidelines (2014).
- 10.10.5. The submitted TTA sets out the baseline environment including the existing road network, public transport routes (bus and Luas) and pedestrian/cycle facilities. Baseline traffic data was gathered on Fassaugh Road Avenue. A number of assumptions have been made in relation to future traffic and modal split, car ownership and use based on census data and consideration of similar scaled development, and associated surveys of car parking demand. I consider the assumptions made are robust.
- 10.10.6. A 12-hour classified vehicular traffic count survey was undertaken on Thursday the 11th of November 2021 between 07:00 and 19:00 on Fassaugh Avenue Road.
- 10.10.7. The TII Traffic and Transport Assessment Guidelines (PE-PDV-02045) advise that Transport Assessments should generally be applied where traffic to and from a development is predicted to exceed 10% of the existing background traffic on the adjoining road (or 5% at sensitive locations). The subject development shall not result in an increase of more than 10% in total traffic flows at any surveyed junction, in either peak hour period, nonetheless the TTA undertook an assessment of the development access junction to ensure no negative impacts as a result of the development. A survey was undertaken using PICADY, for both AM peak hour and PM peak hour. The assessment shows that the development junction onto Fassaugh Avenue currently operates within its effective capacity and will continue to operate within capacities past the year 2039.
- 10.10.8. The concerns raised by observers regarding traffic congestion are noted, particularly around peak hours. I consider that the impacts of additional traffic movement with this development in place would not be so great as to warrant a refusal of permission, as demonstrated in the submitted TTA. I have no evidence before me to suggest the existing street network is at or nearing capacity. I note the CE Report and associated Transportation Report do not raise any issues in relation to existing traffic generation or flows in the wider area. I consider that the development will have a limited impact on the established traffic conditions at this

location, given the level of car parking proposed and give its proximity to public transport services.

10.10.9. Having reviewed all submissions and the documentation received, I am satisfied that the surrounding street network can cater for the predicted traffic generation arising from this development. I am satisfied that the location and design/layout of the scheme will support modal shift to active modes and to public transport services in the area.

#### Public Transport and Active Modes

10.10.10. I refer the Board to section 10.5 above, where the issue of public transport capacity and frequency is addressed in detail.

10.10.11. The site is in Cabra, within walking/cycling distance of a range of services and amenities, including neighbourhood centre shops, health centre and schools. The site is served by buses 122 (15 min peak intervals), 120 (10 min peak intervals), as well as the following buses which have 20 min peak intervals: 38/38A/38B. The Cabra Luas stop is c. 750m to the east and Broombridge Rail Hub/Luas stop is c.1.1km to the northwest.

10.10.12. This is an urban area, where growth is to be expected in accordance with national and local estimates and it is the management of this growth into the future through a shift to sustainable transport modes, which will support the sustainable development of zoned and serviced land and not the provision of additional cars on a finite road infrastructure. I am satisfied that the location and layout of the scheme will support active modes and use of public transport. I note the wide range of travel options open to people in this area and I am satisfied that the public transport service as it exists is high capacity and is high frequency, with connections available between modes. The site is in my opinion appropriately located in terms of access to services, amenities, employment and public transport.

#### Car Parking

10.10.13. The scheme proposes 23 car parking spaces within the development at basement level, including 2 car club spaces and 3 electric vehicle spaces, which equates to a parking ratio of 0.20 no. spaces per unit, or 0.15 if include private parking spaces only.

- 10.10.14. I note a number of submissions raise concerns in relation to the level of parking proposed, which is considered unrealistic and will result in overspill of adjoining streets with traffic congestion in the area also raised as a concern.
- 10.10.15. The Transportation Planning Services report from DCC states that the division is open to considering a reduced quantum of car parking in accessible urban locations, if supported by strong long term management of the allocation of car parking spaces and proactive residential travel planning and other aspects, such as car share and bicycle parking. The submitted documents in this regard are considered acceptable.
- 10.10.16. In terms of national policy, I note that both the NPF and Apartment Guidelines emphasise a need to move away from universal parking standards to a more tailored performance-based approach. In this regard, I note National Policy Objective 13 which states ‘...building height and car parking will be based on performance criteria...’ and National Policy Objective 27 which seeks ‘...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’.
- 10.10.17. Under SPPR 8 of the Apartment Guidelines 2020, it is stated that  
‘There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.’
- 10.10.18. Dublin City Development Plan 2016-2022 outlines under Table 16.1 the maximum car parking standards for residential development as 1 space per dwelling and 1 space per 350 sq.m retail GFA, which would result in a maximum requirement of 118no. car spaces. I note that the standards are maximums.
- 10.10.19. The applicant has submitted a Residential Travel Plan and a Car Parking Management Strategy, which set out a rationale for the car parking proposed and a management strategy for its use. It is stated in the submitted Residential Travel Plan that a Residential Travel Plan Coordinator for the site will be appointed, which will ultimately come under the remit of the Management Company. The Travel Plan



Coordinator will have a role in promoting and monitoring the effectiveness of sustainable travel targets annually. A Car Parking Management Plan has also been submitted which indicates the building's management company will be responsible for the control of the parking and access arrangements within the internal basement parking area and allocation of parking spaces. Parking spaces will not be assigned to individual apartment units; instead the 20 car parking spaces shall be allocated and/or leased to residents on the basis of availability and need, in part by means of a permit/lottery system, in order to optimise the use of parking spaces. The duration of leases shall be for a minimum of 1 month and a maximum of 12 months, after which the lease can be renewed at the discretion of the Management Company and their agents, and subject to availability and demand, and strictly in accordance with the rules of the Car Park Management Strategy in force at that time. No car parking spaces are allocated to the café/ restaurant use.

10.10.20. While I acknowledge that there is a need for car storage, I consider the measures proposed within the Residential Travel Plan and Car Parking Management Strategy will manage the best use of onsite spaces and I further note that people buying into this development will be aware of its public transport accessibility and the limited parking policy, which may ultimately determine if they choose to live here. It is stated that each car share space has the potential to replace the journeys of up to 14 no. private cars a day, which represents a potential for 39 no. spaces. The removal of car storage from the site, shifting the residents to other means of transport, is in line with local and national policy in this regard. The provision of car club spaces will aid in the sustainability of parking provision and will further reduce the traffic impact of the development.

10.10.21. I note the applicant addresses the issue of car parking in the submitted Material Contravention Statement. Having regard to all of the above, I am of the opinion that the proposal does not represent a material contravention of the Development Plan in terms of car parking provision, and I address this issue further in Section 10.12 hereunder.

10.10.22. The site is within an urban location, within walking/cycling distance of a range of services and significant employers. The default minimal policy in relation to parking is in my opinion justified at this location, as per SPPR8(iii) of the Guidelines and will support more sustainable travel patterns, particularly given the close

proximity to the site to bus and the Luas stop at Cabra, as well as regional rail interchange at Broombridge, which, in conjunction with car share facilities, will provide a real alternative to the need for a private car. While concerns are raised in relation to potential overspill parking given lack of restricted parking in the area, I consider this a traffic management issue for the planning authority/an Garda Siochána and beyond the remit of this planning application. Suitable alternative transport options of walking and cycling are available and are encouraged by virtue of the location of the scheme, its proximity to the Luas line, and to a high frequency peak bus service.

#### Cycle Parking

10.10.23. The Apartment Guidelines require a standard of 1 no. bike space per bedroom for residents and 1 no. bike space per 2 residential units for visitors. This equates to a requirement of 167 cycle spaces for residents and 59 spaces for visitors, which is a total of 226 cycle spaces. The proposed development provides for 236 cycle spaces. The CE Report raises no concerns in relation to the level of cycle provision, the quality of bicycle design or layout.

#### Construction Traffic

10.10.24. I note the concerns raised by some parties regarding construction stage impacts. An Outline Construction Management Plan has been submitted by the applicant, which sets out control measures relating to environmental issues of noise, dust, vibration etc, with provision for advance neighbour notifications. The applicant has also submitted a Construction and demolition Waste Management Plan.

10.10.25. All construction activities by their very nature result in elevated emissions (noise, dust, etc.) and increases in construction traffic above the baseline environment. However, these are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts. The implementation of mitigation measures will further reduce any adverse amenity impacts during the construction phase.

#### Conclusion – Traffic

10.10.26. Having examined all the information before me, I am overall satisfied that having regard to the existing context of the site, proximity to public transport,

proximity to retail/commercial services, and amenities, and overall road network, that the proposed development would not lead to the creation of excess traffic or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

#### **10.11. Infrastructural Services including Flooding Issues**

##### Water and Wastewater

- 10.11.1. It is proposed to connect the development to the existing public water main along Fassaugh Avenue.
- 10.11.2. The existing foul wastewater drainage currently discharges to the existing 275mm combined public sewer located on Fassaugh Avenue and from there is treated at Ringsend WwTP via the City Centre / Docklands Foul Sewer Catchment. It is proposed to provide a new foul 225mm diameter connection along Fassaugh Avenue from the site boundary to the existing combined public sewer approximately 40m from the site entrance.
- 10.11.3. Irish Water in the submitted report on this application has raised no issues with the proposals as set out indicating that both water and wastewater connections are feasible and conditions are recommended.

##### Surface Water Management

- 10.11.4. The site currently discharges unattenuated surface water to the combined Cabra sewer network along Fassaugh Avenue and there are surcharging issues downstream of the site. A new separate surface water drainage will be laid along Fassaugh Avenue to connect the surface water to the existing public surface water sewer at the junction of Fassaugh Avenue and Quarry Road. IW and the PA have no objection to this proposal.
- 10.11.5. In terms of surface water management, a SUDS strategy is proposed to manage surface water run off. Green roofs (54% roof coverage), bio-retention areas and permeable paving with Open Graded Crushed Rock (OGCR) sub-base is proposed to provide a minimum two stage treatment approach. Run off will be to a greenfield run off rate. Rainfall events, up to and including the 1 in 100 year storm event (1% AEP) including climate change factor, have been included in the calculations. Storm flows to the public sewer will be reduced and limited.

10.11.6. Iarnrod Eireann has raised concerns in relation to the proposal for surface water to infiltrate to ground and potential impact on the stability of the embankment to the railway line given the proximity of the indicated permeable areas with discharge to ground to the crest of a cut slope, which is 7m below the level of the applicant's property. IE states that their concern is that much of the water that goes to ground will run onto the railway property thus saturating the cutting slope. It is stated that drainage from adjacent developments is one of the primary causes of landslips on the railway and pose a real and substantial risk to railway safety. IE suggest that storm water runoff should be fed into the existing stormwater system via an attenuation tank.

10.11.7. The submitted Environmental Services Report states it is proposed to facilitate infiltration to ground below the Open Graded Crushed Rock (OGCR) sub-base to improve water quality, reduce runoff volumes and discharge rates for small (Interception) and large events. It is stated 'Infiltration to ground for surface water runoff will be facilitated underneath 980m<sup>2</sup> permeable paving and 1,400m<sup>2</sup> bio-retention / landscaped areas outside of podium as shown on Drawing. No. P5000811-C-001...Filter trench will be provided below permeable paving OGCR sub-base for conveyance, infiltration to ground and treatment storage'. In terms of attenuation storage, it is stated that 'An end of line concrete tank will be provided at below ground floor level and throttled to provide 337.5m<sup>3</sup> attenuation, before discharging to the public sewer via the last private manhole within the site.

10.11.8. The applicant has not raised in its submission any commentary on potential impact of the development on the neighbouring railway line. I note the Site-Specific Flood Risk Assessment considers groundwater in the area and states the site is located in an area of low subsoil permeability. It further states 'The pathway to the underlying aquifer is affected by the bedrock overburden thickness and subsoil. A rating of high to low indicates a thick overburden depth... No site investigations have proven the made ground, subsoils and the hydrogeological regime on site'. I am not clear from the information system how much water will discharge to the existing ground water and how much will be diverted to a below ground concrete tank and what additional infrastructure, if any, would be required to mitigate a potential issue of a landslide should water affect the structure of the embankment below the site or the likelihood of this occurring given the low permeability of the soil and subsoil and

what impact the basement level may have on all of this. I do not consider this issue as a basis for a refusal reason, given my substantive concerns in relation to the development concern the design, scale and massing of the proposal, however, this surface water management issue would require to be resolved prior to any development of the site or by way of condition should the Board be minded to grant permission.

10.11.9. A Site-Specific Flood Risk Assessment (FRA) was submitted as part of the application. It is noted that the Tolka River is 1km north of the application site and the River Liffey is 2km south of the site. Existing ground levels around the site at Fassaugh Avenue are at an average elevation of 35.8mAOD. The proposed development is located within Flood Zone C with low probability of fluvial and tidal flooding as per the Composite Flood Mapping for Dublin City Centre from Strategic Flood Risk Assessment (SFRA) for the Dublin City Development Plan 2016-2022. The site is therefore low risk and a Justification test is not required for the proposed development in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities. The FRA considered the potential for tidal and fluvial flood risk. The tidal flood mapping produced by the OPW for the Eastern Catchment Flood Risk Assessment and Management (CFRAM) was examined and indicates that the site is outside the tidal flood extents for all probable tidal AEP events (10%, 0.5% and 0.1%). The ground levels at Fassaugh Avenue are higher than predicted tidal flood levels and flooding from overland flow is unlikely with no pathway for tidal flooding to the site or area. No fluvial flood risks has been identified on or near the site following a review of the fluvial flood mapping produced by the OPW for the Eastern Catchment Flood Risk Assessment and Management (CFRAM). No fluvial flood maps for the Tolka River to the north of the site are currently available, however, the proposed development is located outside of flood zones as per the Composite Flood Mapping from Strategic Flood Risk Assessment (SFRA) for the Dublin City Development Plan 2016 – 2022. Having regard to the Source-Pathway-Receptor model, it is reasonable to conclude from the existing flood information that there is no pathway for fluvial flooding to the site and surrounding area.

10.11.10. The submitted FRA considers residual flood risk from pluvial/surface flooding, and it is considered that in the unlikely event of blockages of the surface water

drainage system within the development, overland flows from the development's local drainage chambers, would be directed to soft landscaped areas and retained within the developments site boundary. The probability of multiple chamber blockage being experienced across the entire network, is very low and further reduced by the proposed closed SuDS systems i.e. no traditional gullies inlets (overflow gullies provided) and the provision of a drainage maintenance regime. Any rain water on impermeable surfaces from any surcharging manhole / gully to the front of the site will be channelled between kerbs to travel downhill towards the junction of Fassaugh Avenue and Quarry Road. Existing buildings are set above existing kerb level and finish floor levels are stepped up 150mm above the surrounding ground level to minimise flood risk. Residual risk from pluvial flooding to the site and surrounding area is negligible.

10.11.11. The submitted FRA considers potential for flooding from infrastructure failure, noting combined/foul sewer surcharges in the area. There are no historic records of flooding along the railway line adjacent the site during recent extreme storm events (October 2011, August and July 2009 Storms Events). No risk is identified to the site. The design of SUDS measures would mitigate any potential risk from pluvial / sewer surcharging or blockage of the development's drainage system.

10.11.12. Overall, having considered all of the information before me, I am satisfied the applicant has adequately addressed the issue of flood risk in the submitted Site Specific Flood Risk Assessment, and proposes a surface water management strategy which indicates the proposed development will manage surface water from the site to the greenfield run off rate as per the GSDSDS and will not impact on neighbouring sites. Should the Board be minded to grant permission, I recommend a condition apply requiring a Stage 2 Detailed Design Stage Stormwater Audit, the findings of which shall be incorporated into the development, where required, at the developer's expense and a Stage 3 Completion Stage Stormwater Audit within six months of substantial completion of the development, the findings of which shall be incorporated into the development, where required, at the developer's expense.

10.11.13. I note concerns raised by IE and this is a matter which would require to be addressed prior to any development on site.

## 10.12. Material Contravention

10.12.1. The applicant has submitted a document titled 'Material Contravention Statement'. This statement has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The items to be considered are set out within the Material Contravention Statement as follows:

- Building Height with reference to Chapter 16 of the Development Plan;
- Dwelling Mix, Requirement of Units to Exceed Floor Area by 10%, Location of the Proposed Build-to-Rent Units and Build-to-Rent Legal Covenant Dwelling Mix with reference to Section 16.10.1 of the Development Plan;
- Number of units provided per core with reference to Section 16.10 of the Development Plan;
- Daylight/Sunlight with reference to Section 16.10.1 of the Development Plan;
- Apartment Room Sizes with reference to Section 16.10 of the Development Plan;
- Private Open Space in Some Build-to-Rent Units with reference to Section 16.10 of the Development Plan; and
- Bedrooms Facing onto Deck with reference to Section 16.10.1 of the Development Plan.

Each item is considered against the Dublin City Development Plan 2016-2022 hereunder.

#### Building Height

10.12.2. Section 16.7 of the Dublin City Development Plan 2016-2022 deals with the issue of building height and acknowledges the intrinsic quality of Dublin as a low-rise city. Section 16.7.2 identifies building heights for the city and specifically refers to height limits for low-rise, mid-rise and taller development. The site is not within 500m of a DART/LUAS stop and is not therefore within a rail hub. The Building Height in Dublin Context Map (Chapter 16, Fig. 39) identifies four locations across the city suitable for buildings of 50m+. The subject site is not identified for either High Rise or Medium Rise development within this context map. A maximum height of 16m applies to this site, which is within the 'low rise rest of city' area. The proposed development has an overall height of c. 22m-24m.

10.12.3. As the development exceeds the height explicitly stated in the plan for this type of area, I consider a material contravention issue arises, which is addressed by the applicant within the submitted Material Contravention Statement. The applicant refers to The Urban Development & Building Height Guidelines (2018) in support of the argument for increased building heights at this location and notes SPPR3A in particular. It is noted by the applicant that the Dublin City Development Plan was published prior to the publication of these Guidelines and therefore the plan does not align with the NPF and these guidelines. The applicant states, inter alia, that their rationale for increased residential height is due to the strategically located nature of the site and the ability of the site to absorb the development without undue impact on the character of the area or the amenity of neighbouring properties, as supported by other studies submitted with the application. The applicant refers to a number of applications in the area which have been permitted and are greater than seven storeys in height.

10.12.4. Under Section 37(2)(b) of the Planning and Development Act 2000, as amended, it is open to the Board to grant permission for development that is considered to be a material contravention, having regard to S37(2)(b) of the Planning and Development Act 2000, as amended, and as examined further hereunder.

#### Unit Mix

10.12.5. Section 16.10.1 (Residential Quality Standards – Apartments) of the Dublin City Council Development Plan 2016-2022 sets out standards in relation the mix of dwellings provided as part of new apartment developments, which provides for a maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units, however, it is further stated that: ‘The above mix of units will not apply to managed ‘build-to-let’ apartment schemes for mobile workers where 42-50% of the total units may be in the form of one-bed or studio units’.

10.12.6. The proposed development comprises 57% 1 bed units and 43% 2 bed units. The applicant states ‘the development exceeds the maximum standards for one bedroom units set out in the Development Plan, which could be considered to materially contravene this Development Plan policy’.

10.12.7. The submitted Material Contravention Statement refers to the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning



Authorities' (December 2020), and specifically SPPR 1 and SPPR 8(i). The wording of the SPPRs is as follows:

Specific Planning Policy Requirement 1: Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

However, in relation to BTR developments, SPPR8(i) applies, which states:

No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.

10.12.8. The applicant contends that as this is a BTR scheme, no restrictions on dwelling mix apply; that the scheme is compliant with SPPR 8(i) as it post-dates the Dublin City Development Plan and that the Development Plan must be read in light of SPPR8 in regard to conflicting policies and objectives of Development Plans.

10.12.9. I note that the Dublin City Development Plan standards with regards to unit mix are at variance with the aforementioned Apartment Guidelines (2020). Under Section 37(2)(b) of the Planning and Development Act 2000, as amended, it is open to the Board to grant permission for development that is considered to be a material contravention. However, I note it is stated in the development plan at the end of Section 16.10.1 that where the applicant cannot meet all of the requirements under Section 16.10.1, '...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...'. The applicant has set out a rationale for alternative standards on the basis of updated S28 guidelines, which have been published since the adoption of the Dublin City Development Plan 2016-2022. I consider the standards as set out in this section of the plan are standards and not strict policies to be applied in all instances. I do not consider a material contravention issue therefore arises in this regard.

#### Floor Areas

- 10.12.10. The Dublin City Development Plan 2016-2022 under Section 16.10.1 sets out minimum floorspace standards for apartments and states: 'It is a requirement that the majority of all apartments in a proposed scheme of 100 units or more must exceed the minimum floor area standard by at least 10% (studio apartments must be included in the total but are not calculable as units that exceed the minimum). In schemes of 10-99 units the same approach is applied but it is acceptable to redistribute part of the minimum 10% additional floor space throughout the scheme'.
- 10.12.11. The applicant states that 31% of the proposed apartments exceed the minimum floor areas by 10% (i.e. not a majority), which could be considered to materially contravene this Development Plan policy.
- 10.12.12. The nature of the scheme, which is a proposed BTR development, is noted and the provisions of the Apartment Guidelines, specifically SPPR8(iv), in this regard are also noted. SPPR8(iv) states: 'The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes'. I note the development plan precedes the Apartment Guidelines.
- 10.12.13. Under Section 37(2)(b) of the Planning and Development Act 2000, as amended, it is open to the Board to grant permission for development that is considered to be a material contravention. However, I note it is stated in the development plan at the end of Section 16.10.1 that where the applicant cannot meet all of the requirements under Section 16.10.1, '...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...'. The applicant has set out a rationale for alternative standards on the basis of updated S28 guidelines, which have been published since the adoption of the Dublin City Development Plan 2016-2022. I consider the standards as set out in this section of the plan are standards and not strict policies to be applied in all instances. I do not consider a material contravention issue therefore arises in this regard.

#### Location of BTR and Legal Covenant

- 10.12.14. Under Section 16.10.1 of the Dublin City Development Plan 2016-2022, states that the provision in relation to unit mix '...only applies to long-term purpose-built managed schemes of over 50 units, developed under the 'build-to-let' model and located within 500 m (walking distance) of centres of employment or adjoining major

employment sites. Centres of employment are identified in Fig W Housing Strategy Appendix 2A.' It is further stated that 'This particular managed rental model shall be retained in single ownership for 20 years (minimum) during which period units may not be sold off on a piecemeal basis'. The Development Plan also sets out at the end of Section 16.10.1 that where the applicant cannot meet all of the requirements under Section 16.10.1, '...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...'.

10.12.15. The applicant states in the submitted Material Contravention Statement that, on a precautionary basis, this policy is included in the Material Contravention Statement, however it is argued that the site is located in a 'Central and/or Accessible Urban Location' as defined by the Apartment Guidelines, 2020, in proximity to public transport, employment, services and facilities, therefore the Build-to-Rent units proposed are acceptable at the subject site. The applicant further states the Apartment Guidelines 2020 requires a 15 No. year covenant, and it is therefore in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

10.12.16. Under Section 37(2)(b) of the Planning and Development Act 2000, as amended, it is open to the Board to grant permission for development that is considered to be a material contravention. However, I do not consider this issue is a material contravention as this section of the development plan relates to development standards and not specific policy. Since the publication of the development plan the Apartment Guidelines 2020 have been published and a rationale for the acceptance of BTR at this location has been set out by the applicant and an assessment against the Apartment Guidelines included. I have discussed the acceptability of this location of BTR elsewhere in this report and consider here that this issue is not a material contravention of the development plan.

#### Number of Units per Core

10.12.17. Section 16.10 of the Dublin City Development Plan 2016-2022 sets out that there shall be a maximum of 8 No. units per core per floor in apartment blocks.

10.12.18. The applicant argues that the Apartment Guidelines 2020 postdate the operative development plan and state under SPPR8(v) of the Apartment Guidelines,

2020 states that: 'The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.' It is argued that the proposed units per core are thus acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

10.12.19. I note it is stated in the development plan at the end of Section 16.10.1 that where the applicant cannot meet all of the requirements under Section 16.10.1, '...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...'. The applicant has set out a rationale for alternative standards on the basis of S28 guidelines, which have been published since the adoption of the Dublin City Development Plan 2016-2022. I consider the standards as set out in this section of the plan are standards and not strict policies to be applied in all instances. The overall design quality has been discussed elsewhere in this report. I do not consider a material contravention issue arises in this regard.

#### Sunlight Daylight Assessment

10.12.20. Section 16.10.1 of the Development Plan sets out the following: 'Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)'.

10.12.21. The applicant states that the daylight/sunlight report demonstrates a very small number of units that do not fully meet the daylight requirements which have been discussed in this section of the Material Contravention Statement in the event that this is considered to be a material contravention of Section 16.10.1 of the Development Plan.

10.12.22. A Daylight-Sunlight Assessment has been submitted and has been guided by the guidelines referenced in the development plan. Having regard to the wording of the standards section of the development plan, I do not consider a material contravention issue arises in this regard.

#### Variation to Bedroom Areas

10.12.23. Section 16.10.1 of the Development Plan sets out the floor areas for apartments, for living/kitchen/dining rooms and for bedrooms.

10.12.24. The Apartment Guidelines, 2020 allows a variation of up to 5% to be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas (see below). The applicant states that this 5% variation in aggregate floor space and/or room widths has been applied to five units (1.11;2.11;3.11;4.11; and 5.11) with all meeting overall minimum floor area requirements (the bedrooms areas being 12.4sqm instead of 13sqm). The applicant argues that the variation is allowed for in the Apartment Guidelines and notes that the affected units are 2 bedroom, 3 person units and the second bedroom in these units is large at 12.4sqm (7.1 sqm being the minimum single bedroom size requirement).

10.12.25. As noted above, section 16.10.1 allows that where the applicant cannot meet all of the requirements under Section 16.10.1, ‘...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...’. The applicant has set out a rationale for alternative standards on the basis of updated S28 guidelines, which have been published since the adoption of the Dublin City Development Plan 2016-2022, and outlines the increase floor area achievable in the affected apartments. I do not consider a material contravention issue therefore arises in this regard.

#### Private Open Space

10.12.26. Section 16.10.1 of the Development Plan sets out that private open space ‘shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels’. As noted previously, the Development Plan sets out at the end of Section 16.10.1 that where the applicant cannot meet all of the requirements under Section 16.10.1, ‘...this must be clearly identified and a rationale for any alternative, compensatory design solution set out...’.

10.12.27. The applicant highlights that 5 of the 117 No. units will be provided with a internal winter garden with a high-level window and will be without an external balcony/terrace. The winter gardens are being proposed to avoid potential overlooking into the site to the east. In this regard, the applicant refers to the Apartment Guidelines, 2020 where flexibility for Build-to-Rent units is allowed under Specific Planning Policy 8 (i) as follows:

Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity’.

10.12.28. Given the wording of Section 16.10 in this regard, I do not consider a material contravention issue arises and I have assessed the planning merits of this design element under section 10.6 of this report above.

#### Bedrooms Facing onto a Deck

10.12.29. Section 16.10.1 of the Development Plan sets out the following standard (not a policy or objective) in relation to deck access/bedrooms facing onto the deck: ‘In certain circumstances, deck access may be acceptable as long as bedrooms do not face out on to the deck and it is well proportioned and designed. In some cases, secondary bedrooms facing on to the deck may be acceptable if quality issues are satisfactorily addressed by careful design such as providing a semi-private external buffer zone.’

10.12.30. The applicant highlights that twelve of the 1 bed units have a bedroom facing onto the deck on levels 01-04 at the northern end of the site. It is the applicant’s opinion that the provision of 12 No. units with bedrooms facing onto the deck (which represents c. 10% of the total units) is not a “material” contravention of the Development Plan, however, on a precautionary basis, should An Bord Pleanála consider this to represent a Material Contravention of the Development Plan it has been addressed in the submitted Material Contravention Statement.

10.12.31. I note that eight apartments (four apartments on level 1 and four on level 2) are accessed via a deck, with the single bedroom in each apartment facing onto this east orientated deck and the living-dining area is orientated facing west served by a balcony on that façade. The deck access is a stated 1.62m wide. At first floor level the drawings indicate a 300m, ‘planter screening to windows facing deck access’.

While this is not stated on the level 2 drawings, I see no reason why a planter screening could not also be provided for on that level in the interests of privacy. Given the flexibility of the wording of Section 16.10.1 in this regard and the limited number of units affected, I do not consider this issue gives rise to a contravention that is material and I have assessed the planning merits of this design approach which focuses the combined kitchen/living rooms on the western elevation which will benefit from evening sunlight, and I consider this the most preferable arrangement in terms of access to sunlight daylight for future occupants, as recommended in BRE guidance documents.

### **Section 37(2)(b) Analysis**

10.12.32. I shall now address the issue of material contravention with regard to the relevant legal provisions.

10.12.33. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan, the Board may grant permission where it considers that:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

### **Building Height**

10.12.34. Having regard to the provisions of Section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular Section 37(2)(b)(i) and (iii), due to strategic nature of the application and national policy guidance in this regard, I consider that it is open to the Board to grant permission in this instance in relation to the material contravention issue of Building Height. However, having regard to the conclusion in my assessment above (I refer the Board to Sections 10.4 and 10.5 of this report), I do not consider a material contravention of building height is warranted in this instance, as the proposal contravenes national planning policy on building height as set out in the Building Height Guidelines and should therefore be refused permission on this basis. I therefore do not address the matter of building height further here.

10.12.35. In relation to all other issues raised in the Material Contravention Statement, (including Unit Mix, Floor Areas, Number of Units per Core, Variation to Bedroom Areas, Location of BTR, Legal Covenant, Private Open Space, Sunlight-Daylight Assessment, and Bedrooms Facing onto A Deck), I do not consider these elements of the proposal give rise to material contraventions of the development plan.

10.12.36. Should the Board disagree with my assessment, I would highlight the policies and objectives of national guidelines including the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) and the Specific Planning Policy Requirement (SPPRs) contained therein. In particular, I note SPPR 8 of these Guidelines (2020) which states as follows:

For proposals that qualify as specific BTR development in accordance with SPPR 7:

- (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall



quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.

(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;

(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

10.12.37. I note the policies and objectives within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness (2016), Housing for All – A New Housing Plan for Ireland (2021), and the National Planning Framework – Ireland 2040, fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. The proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government’s policy to increase the delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness. The proposed development is therefore considered to be strategic in nature.

10.12.38. Having regard to the above, I consider that it is open to the Board to grant permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii).

### 10.13. **CE Report – Planning Authority Refusal**

10.13.1. My conclusions on the matters raised in the refusal reasons recommended in the DCC Chief Executive Report, which are discussed throughout this report, are summarised hereunder.

10.13.2. Dublin City Council Chief Executive's Report recommends a refusal based on the following three reasons:

1. Having regard to the need for buildings of greater height to achieve high standards of urban design and architecture and to successfully integrate with the character and public realm of the area as per Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018), the proposed development does not successfully integrate with established residential development in the vicinity and constitutes overdevelopment of the site by reason of its excessive height, unrelieved and excessive length, monolithic design, the provision of roof-top amenity spaces, and proximity to the private residential gardens along Saint Attracta Road and Lanigan's Funeral Home site. The development as proposed would depreciate property values and prove to be seriously injurious to established residential development in the area by way of overbearing impact and excessive overlooking of private gardens. The proposed development would, therefore, be contrary to the Ministerial Guidelines and the proper planning and sustainable development of the area.

Potential impacts on visual and residential amenities are considered in Section 10.5 above, which concludes that the development would have an overbearing impact on residential properties to the east and fails to integrate successfully with the public realm when viewed from the east and from the west and therefore (as concluded elsewhere in this report) the development does not in my opinion satisfy the criteria set out in section 3.2 of the Building Height Guidelines as it does not achieve a satisfactory response to adjacent residential properties or integrate successfully with the public realm and therefore does not provide the optimal design solution for this urban infill site, having regard to the site's locational context and would, therefore, be contrary to the Urban Development and Building Heights Guidelines for Planning Authorities.

2. Having regard to the need to provide for high quality Resident Support Facilities in BTR residential schemes, supported by an evidence basis of the appropriateness of same, and the obligation on the project proposer to demonstrate the overall quality of the facilities proposed and to demonstrate that the residents will enjoy and enhanced overall standard of amenity as per SPPR 7 of Sustainable Urban Housing : Design Standards for New Apartments (2020), the Resident Support Facilities proposed in this scheme are inadequate in terms of quality and quantity. The applicant has failed to demonstrate to the satisfaction of the planning authority that the future occupants of the scheme would enjoy an enhanced standard of amenity and, therefore, seek to remain tenants in the longer term. The proposed development would, therefore, be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.

Section 10.6 above considers the quantum and quality of Resident Support Facilities provided for. While I consider the quantum acceptable, I do not consider the design and range of uses intended for future occupants has been adequately considered and designed into the scheme. However, I consider this is an issue which could be addressed by way of condition and the proposal does not in my opinion warrant a refusal on this basis.

3. The proposed development would fail to provide an acceptable standard of residential amenity for future occupants in accordance with the provisions of the Guidelines for Planning authority on Design Standards for New Apartments (2020) as a result of an excessive provision of single-aspect units; excessively long internal corridors; non-provision of private open space for a number of units and the failure of a number of units to reach minimum daylight target standards in the absence of robust mitigating compensatory measures. The proposed development would, therefore, be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.

Section 10.6 of this report above considers the quality of the design and layout of the proposed development on the amenity of future occupants. I share the planning authorities concerns in relation to the internal layout and number of single aspect units, in addition to poor level of compliance with daylight standards, in accordance

with the provisions of the Guidelines for Planning authority on Design Standards for New Apartments (2020).

#### 10.14. Other Matters

##### Archaeology

- 10.14.1. There are no known archaeological monuments within the site boundary. A condition in relation to archaeological monitoring during construction works would be warranted as it is possible that previously unrecorded archaeological features or deposits have survived beneath the current ground level.

##### Ownership

- 10.14.2. Iarnrod Eireann dispute ownership of a portion of the northern end of the site. This area relates to a portion of proposed open space, which when viewed on the overlay map provided with the IE submission, is not significant in area.

- 10.14.3. I note that the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land and these are ultimately matters for resolution in the Courts. I also note Section 10(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, states, a person is not entitled solely by reason of a permission to carry out any development. Should the Board be minded to grant planning permission for the development sought under this application it may wish to consider reiterating Section 10(6) of the said Act, as a supplementary 'Advice Note'.

##### Constitutionality of Legislation and Ministerial Guidelines

- 10.14.4. Some submissions question the constitutionality of legislation and ministerial guidelines. It is beyond the remit of this report and recommendation to address constitutional matters.

##### Consultation

- 10.14.5. Consultation has been undertaken in compliance with the Planning and Development Act 2000, as amended, and the Planning and Development (Housing) and Residential Tenancies Act 2016. Public participation is allowed for in the application process and I have considered all submissions made in my assessment.

### Procedural Issues

- 10.14.6. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations.
- 10.14.7. In relation to representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and it forms the legitimate process for the determination of this application.

### Part V

- 10.14.8. I note the Housing Report accompanying the DCC CE Report state no engagement by the acting agents with the Housing Department in relation to Part V.
- 10.14.9. I note changes have been made in relation to Part V under the Affordable Housing Act 2021 and this may impact the applicants Part V obligations and a review will be required, should the Board be minded to grant permission. This issue can be addressed by way of condition and if an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

### Waste Management

- 10.14.10. Site specific waste management plans, for both during construction and operational phases of the development, have been submitted with the application.

## **11.0 Screening for Appropriate Assessment**

### **11.1. Compliance with Article 6(3) of the Habitats Directive**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### **11.2. Background on the Application**

- 11.2.1. The applicant has submitted a report titled 'Report for the Purposes of AA Screening' by Moore Group Environmental Services, dated 8<sup>th</sup> February 2022.

11.2.2. The applicant's Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Potential impacts during construction and operation of the development are considered as well as in-combination impacts.

11.2.3. The screening is supported by associated reports submitted with the application, including:

- Outline Construction Management Plan
- Engineering Service Report and Site-Specific Flood Risk Assessment
- Construction and Demolition Waste Management Plan
- Ecological Impact Assessment
- Ground Investigation Report

11.2.4. The AA Screening Report submitted with the application concluded that:

'...Adverse effects on the Dublin Bay European sites are highly unlikely given:

- The nature of the Proposed Development, a residential development that is to be located within the suburban environment of Cabra in north Dublin;
- The distance between the Proposed Development and the nearest European sites, over 4 km;
- The proposed development is to be connected to existing combined public sewer and wastewater directed to appropriate treatment.

It has been objectively concluded by Moore Group Environmental Services that:

1. The Proposed Development is not directly connected with, or necessary to the conservation management of the European sites considered in this assessment.
2. The Proposed Development is unlikely to either directly or indirectly significantly affect the Qualifying interests or Conservation Objectives of the European sites considered in this assessment.

3. The Proposed Development, alone or in combination with other projects, is not likely to have significant effects on the European sites considered in this assessment in view of their conservation objectives.

4. It is possible to conclude that significant effects can be excluded at the screening stage.

It can be excluded, on the basis of objective information, that the Proposed Development, individually or in combination with other plans or projects, will have a significant effect on a European site.

An appropriate assessment is not, therefore, required...'

11.2.5. Having reviewed the documents and submissions received, I am satisfied that I have sufficient information to allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### 11.3. **Screening for Appropriate Assessment - Test of likely significant effects**

11.3.1. The proposed development is examined in relation to any possible interaction with European sites, designated Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

11.3.2. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

#### **Brief Description of the Development**

11.3.3. I refer the Board also to section 3 of the Screening Report which sets out a description of the proposed development and section 3 of this report above. In summary, the proposed development is for 117 build-to-rent units on a largely greenfield site, 0.53ha in area, within the inner urban area of Dublin. The site comprises a vacant public house, to the north of which the lands have been submit

to engineering works/deposition of spoil. There are residential properties to the north, south and west and an active railway line to the east.

- 11.3.4. The environmental baseline conditions are discussed, as relevant to the assessment of ecological impacts, where they may highlight potential pathways for impacts associated with the proposed development to affect the receiving ecological environment (e.g. hydrogeological and hydrological data), which informs whether the development will result in significant impacts on any European Site.
- 11.3.5. The Ecological Survey submitted notes there are no alien invasive species on the site. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence that species listed in Annex II of that Directive are present. With regard to habitats and flora, the site is composed of bare/disturbed ground for the most part. The site offers no potential for roosting bats as there are no mature or large trees or suitable buildings. The potential for foraging by bats is also low as there are no hedgerows or treelines on site. The site does not have any habitat suitable for otters. No bird species of conservation importance, and especially wetland bird species, would be expected within the site given the lack of suitable habitat. There are no water courses, bodies of open water or habitats on the site which could be considered wetlands.
- 11.3.6. Wastewater is proposed to discharge to existing foul sewers, which discharge to the Ringsend WWTP for treatment prior to discharging to Dublin Bay. The site currently discharges unattenuated surface water to the combined Cabra sewer network via an existing 225mm public combined sewer located along Fassaugh Avenue. It is proposed to provide a new foul 225mm diameter connection along Fassaugh Avenue from the site boundary to the existing combined public sewer approximately 40m from the site entrance.
- 11.3.7. Surface water is proposed to discharge primarily to the existing surface water network. A new separate surface water drainage will be laid along Fassaugh Avenue to connect the surface water to the existing public surface water surface at the junction of Fassaugh Avenue and Quarry Road. The 'rear landscape areas of the site' (0.14ha in area) will infiltrate to ground.
- 11.3.8. As part of the surface water management system, it is proposed to install SUDS measures, including green roofs, bioretention areas and permeable paving, with



surface water being limited to Greenfield run-off rate via attenuation within the site. It is noted that the SUDS proposals are standard measures in all new developments and are not included here to avoid or reduce an impact to a European site. I have not considered the SUDS strategy for the site as part of this assessment.

11.3.9. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Habitat loss/fragmentation
- Habitat disturbance /species disturbance
- Habitat degradation as a result of hydrological links

#### **Submissions and Observations**

11.3.10. The submissions and observations from the Local Authority, Prescribed Bodies, and Observers are summarised in sections 7, 8 and 9 of this report. I note the following points in relation to Appropriate Assessment were raised in a submission from John Conway and Louth Environmental Group:

- The information is insufficient, contains lacunae, and is not based on appropriate scientific expertise.
- AA – insufficient surveys to assess potential impact from bird collisions/flight risk and bird flight paths.
- Zone of influence in AA and NIS is not reasoned or explained.
- Cumulative effects inadequately considered.
- The Screening Report had regard to mitigation measures.
- Insufficient site-specific surveys for the purposes of AA Screening.

11.3.11. I have reviewed all submissions made and issues where relevant are addressed within my assessment hereunder.

#### **European Sites**

11.3.12. The development site is not located in or immediately adjacent to a European site. A summary of the European Sites that occur within a possible zone of influence of the proposed development are set out within the submitted screening report and

are listed in table 4 below. The site is separated from the identified European sites by (straight line) distances of between 4-7km.

- 11.3.13. One observer questions the methodology of the AA Screening Report in terms of the zone of influence. I have not confined myself to a specific distance but have undertaken a site specific assessment based on characteristics of the site, distance to European sites and consideration of the source-pathway-receptor model.
- 11.3.14. There are no direct hydrological links between the application site and the identified European sites in the submitted Screening Report. Indirect connectivity is identified in the submitted Screening Report which states indirect links exist via Ringsend WasteWater Treatment Plant to SACs and SPAs in Dublin Bay, namely North Dublin Bay SAC, South Dublin Bay SAC, North Bull Island SPA, and South Dublin Bay and River Tolka Estuary SPA. European sites considered in the screening report are identified in figure 4 and table 2 of the submitted report. An indirect link is also identified relating to the surface water network.
- 11.3.15. I have considered the qualifying interests/special conservation interests of these European sites, in addition to examination of the application site in terms of the source-pathway-receptor model, and the distance from the application site to these European sites in table 4 hereunder. In view of the identified potential indirect hydrological connection to sites within Dublin Bay via the waste water system, I consider that the potential for effects on four sites needs to be considered in more detail at the Screening Stage, namely, North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (00406), and South Dublin Bay and River Tolka Estuary SPA (004024).

#### Factors Likely to Give Rise to Potential Impacts

- 11.3.16. Habitat loss/fragmentation: In terms of the zone of influence, I note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The site does not contain any habitats listed under Annex I of the Habitats Directive.
- 11.3.17. Habitat disturbance/species disturbance: With regard to direct impacts of habitat loss and disturbance, the application site is not located adjacent or within a European site. Given the scale of works involved, the nature of the existing

intervening urbanised environment and distances involved to European sites, habitat disturbance is unlikely to occur. With regard to indirect impacts, the area around the proposed development is suburban in style, the land has not been identified as an ex-situ site for qualifying interests of a designated site, and the lands themselves are not suitable for ex-situ feeding or roosting of wetland birds. The site is too far from bird roosting areas to result in impacts from noise or other forms of human disturbance during construction and operation. One submission has raised concerns in relation to bird flight paths and potential for collisions. No significant flight paths related to protected birds have been identified in this area and the observer has submitted no evidence in relation to existence of flight paths. I furthermore note the proposed buildings are not particularly tall, there are other similarly scaled buildings in the wider area, and there is no reason to believe a bird would not fly over or around such structures.

11.3.18. Habitat degradation as a result of hydrological impact: There is no direct pathway from the site to any European site. There is an identified indirect link via the existing foul sewer network, which treats waste at Ringsend WWTP, which discharges treated water into Dublin Bay.

11.3.19. Wastewater will discharge to Ringsend WWTP. Irish Water indicates that the Ringsend WWTP plant is operating above its capacity of 1.64 million P.E. (Irish Water, 2017), with a current operational loading of c.2.2 million P.E. Despite the capacity issues, the Liffey Estuary Lower and Dublin Bay are currently classified by the EPA as being of “Unpolluted” water quality status and the Tolka Estuary is currently classified by the EPA as being “Potentially Eutrophic”. I note that Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. I consider the peak effluent discharge from the proposed development would be insignificant given the overall scale of the Ringsend facility and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation

interests of European sites in or associated with Dublin Bay. It is also noted that Irish Water in their submission raised no concerns in relation to the proposed development. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality in Dublin Bay.

11.3.20. I note the surface water from the site will discharge to the public network. With regard to any potential pollutants or sediment arising from surface waters on site via the surface water network at construction stage, I consider the potential for significant effects can be excluded on the basis that the nature of any discharges during the construction phase is temporary and standard pollution control would be put in place during construction (which is standard practice for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to European sites); in relation to the operational phase I note the fact that there will be no significant increase in surface water run-off and that surface water run-off will be attenuated and part treated within the site (the inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment). Should a pollution event occur during the construction or operation phase due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation distances between the application site and European sites; given the volume of water in the surface water network and potential for any sediments/pollution to be dissipated; and given the level of mixing, dilution and dispersion of surface water in the receiving water of Dublin Bay and the Irish Sea. The proposed development will not therefore impact the overall water quality status of Dublin Bay and there is no possibility of the proposed development impacting the conservation objectives of any of the qualifying interests or special conservation

interests of European sites in or associated with Dublin Bay. While a SUDS strategy is proposed for the development, I note this is not required or related to the protection of any European Sites and I have considered potential impacts with no SUDS strategy in place.

11.3.21. Habitat degradation as a result of hydrogeological impacts: I have considered the potential for hydrogeological impacts given the proposal for a basement. In the unlikely event that pollutants enter the ground water, I note the significant distance of the site from European Sites (see table 4 below), level of settling and dilution likely to occur prior to reaching of any European site, and the lack of a direct hydrological link. I am therefore satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of any European sites, either alone or in combination with any other plans or projects, as a result of hydrogeological effects.

11.3.22. Cumulative Impacts: Other relevant projects and plans in the region have been considered, as set out in section 5.2 of the submitted Screening Report and no cumulative impacts have been shown to arise.

**Table 4 Screening Summary Matrix and possibility of significant effects:**

European Site	Distance	Screening Comment
<b>South Dublin Bay SAC [000210]</b> [1140] Mudflats and sandflats not covered by seawater at low tide [1210] Annual vegetation of drift lines [1310] <i>Salicornia</i> and other annuals colonising mud and sand [2110] Embryonic shifting dunes	c. 6km	South Dublin Bay SAC is designated for a range of coastal and estuarine habitats.  There is no direct source-pathway-receptor between the site and this SPA.  There is no direct overlap between the development site and this SAC, nor do protected coastal or estuarine habitats occur within or in immediate proximity to the project site.  Indirect connectivity exists to this SAC, via surface water and wastewater, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a

<p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>		<p>viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>North Dublin Bay SAC (000206)</b></p> <p>Habitats 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 2190 Humid dune slacks</p> <p>Species 1395 Petalwort (<i>Petalophyl lumaralsii</i>)</p>	<p>c. 7km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>Indirect connectivity exists to this SAC, via surface water and wastewater networks, however, given the distances involved and the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p><u>Conservative Objective</u> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		
<p><b>South Dublin Bay and River Tolka Estuary SPA (004024)</b></p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p>	<p>c. 4km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct spatial overlap between the site and this SPA. The project site is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. There is no evidence of the project site being used by field feeding species, as per site surveys undertaken. The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>Indirect connectivity exists to this SPA exists via surface water and wastewater networks, however, given the distances involved and the dilution and dispersal that would occur within the sea this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to</p>

<p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p>[A999] Wetland and Waterbirds</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>		<p>affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>North Bull Island SPA (00406)</b></p> <p>Birds: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p>	<p>c. 7km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p> <p>Indirect connectivity exists to this SPA via surface water and wastewater networks, however, given the distances involved and the dilution and dispersal that would occur within</p>



<p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Habitats: Wetland and Waterbirds [A999]</p> <p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>		<p>the sea, this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
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#### 11.4. Screening Determination

11.4.1. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation

measures have been included in the development proposal specifically because of any potential impact to a European site.

- 11.4.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses, and distance from European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site 000210 (South Dublin Bay SAC), 000206 (North Dublin Bay SAC), 004024 (South Dublin Bay and River Tolka Estuary SPA), and 004006 (North Bull Island SPA), or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

## 12.0 Environmental Impact Assessment Screening

- 12.1. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- (i) Construction of more than 500 dwelling units
- (iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

- 12.2. The development provides for 117 residential units on a site with a stated net area of 0.5318ha. The site is located within the administrative area of Dublin City, in what is defined as the 'outer city' area. The proposed development is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

- 12.3. The criteria at schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant

effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Statement which includes the information required under Schedule 7A to the planning regulations. I am satisfied that the submitted EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

- 12.4. I have assessed the proposed development having regard to the information above, to the Schedule 7A information and other information which accompanied the application, inter alia, Appropriate Assessment Screening, and Ecological Impact Assessment and I have completed a screening assessment as set out in Appendix A.
- 12.5. The nature and the size of the proposed development is well below the applicable thresholds for EIA. The residential use proposed would be similar to predominant land uses in the area. The site is not designated for the protection of a landscape. The site is not located within a flood risk zone and the proposal will not increase the risk of flooding within the site. The subject lands are not proximate to any Seveso/COMAH designated sites. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water supply, upon which its effects would be marginal. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The proposed development is not likely to have a significant effect on any European designated site (as per the findings of section 11 of this assessment).
- 12.6. The various reports submitted with the application, as listed in section 3.4 of this report above, address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have considered all submissions on file, and I have considered all information which accompanied the application including inter alia:

- Environmental Impact Assessment Screening Report
- EIA Screening Statement Report
- Statement of Consistency and Planning Report
- Material Contravention Statement
- CGI and Photomontages; Townscape and Visual Impact Assessment
- Engineering Services Report
- Daylight, Sunlight and Shadow Report
- Appropriate Assessment Screening Report, and Ecological Impact Assessment Report;
- Flood Risk Assessment
- Traffic and Transport Assessment
- Energy Statement
- Construction and Demolition Waste Management Plan
- Construction Management Plan
- Operational Waste Management Plan
- Noise and Vibration Assessment
- Bat Assessment

12.6.1. In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001-2021, the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. In addition to the EIA Screening document submitted, I refer the Board to the additional document submitted titled ‘Statement in accordance with Article 299B(1 )(b)(ii)(II)(C) of the Planning and Development Regulations 2001-2021, as amended for the Strategic Housing Development at Fassaugh Avenue Cabra Dublin 17’, dated February 2022. The submitted Appropriate Assessment Screening document and Ecological Impact Assessment document have considered the

Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC). Directive 2000/60/EC, EU Water Framework Directive was considered in the AA Screening Report, EclA, Site Specific FRA, Outline Construction Management Plan, Construction and Demolition Waste Management Plan, and Engineering Services Report. Directive 2001/42/EC, SEA Directive was considered in the EIA Screening Report and was taken account of in the operative Dublin City Development Plan. Directive 2002/49/EC, Environmental Noise Directive was addressed in the submitted Noise and Vibration Impact Assessment and Outline Construction Management Plan. Directive 2008/50/EC on ambient air quality and cleaner air for Europe was considered in the Outline CMP, Traffic and Transport Report, and C&D WMP. Directive 2007/60/EC on the assessment and management of flood risks was considered in the Site-Specific FRA. Other relevant legislation of Bern and Bonn Convention and Ramsar Convention have been considered in the submitted EclA and AA Screening Report.

12.6.2. I have taken all the above documents into account in the screening determination.

12.6.3. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.

12.7. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## 13.0 Recommendation

It is recommended that permission be refused for the proposed development, for the reasons and considerations set out hereunder.

## 14.0 Reasons and Considerations

1. Having regard to the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing Planning and Local Government in December 2018, it is considered that the proposed development by reason of its design, scale, bulk and mass would be out of character with the context of the site, would represent a visually prominent and monolithic form of development relative to its immediate environment, would be visually obtrusive, and would seriously detract from the visual amenities and character of the area when viewed from the east and from the west, and in combination with the design in terms of façade treatment and architectural expression, would not constitute an adequate design response to the context and opportunity of this urban infill site, and would not, therefore, be in accordance with the criteria set out under section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018.
2. The proportion of single aspect apartments in the proposed development and quality of the internal layout, specifically the design of excessively long internal corridors with lack of natural light and adequate ventilation, in addition to the design and location of balconies, and positioning of windows giving rise to overlooking between apartments, would fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to guidelines issued to the Guidelines for Planning Authorities on the Design of New Apartments issued by the Minister in December 2020.
3. The Board is not satisfied on the basis of the Daylight, Sunlight and Shadow Report submitted, that the proposed development would not be detrimental to the established residential amenity of existing dwellings to the east, and the failure of a number of proposed apartments to reach minimum daylight target standards in the absence of robust mitigating compensatory measures, would result in poor residential amenity for future occupants. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 15.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 24<sup>th</sup> day of February 2022 by Thornton & O'Connor Town Planning on behalf of R&D Developments Limited.

### Proposed Development

The development will principally consist of:

- Demolition of the former “Matt’s of Cabra” public house and associated structures (c. 791 sq m)
- Construction of a part 1 No. to part 7 No. storey (over part basement) development comprising 117 No. Build-to-Rent apartments (67 No. one bed apartments and 50 No. two bed apartments) and a café/retail unit (257 sq m), in addition to a single storey plant building. The development provides resident amenity spaces at ground floor level including work/study area, gym, function room and lounge. The gross floor area of the development above ground is c. 9,668 sq m (over a basement of 1,384 sq m which principally provides car parking, bicycle parking and services). The gross floor space of the development is 9,519 sq m. The proposed development also comprises access/egress to the basement car park from Fassaugh Avenue; 23 No. car parking spaces including 2 No. mobility impaired spaces, 3 No. car club spaces and 3 No. electric vehicle spaces; 2 No. motorcycle spaces at basement level; bicycle parking; electric bike storage; balconies and roof gardens; resident facilities including concierge, post room, management and repair and bin storage; boundary treatments; hard and soft landscaping; lighting; plant; stores; substations and switchrooms; photovoltaic panels; green roofs; lift overruns; and all other associated site works above and below ground.
- Works are also proposed on Fassaugh Avenue including improvement works to the existing footpath along the roadside extents on an area of c. 0.0081 hectares. A

new separate surface water drain will be laid along Fassaugh Avenue to connect the surface water to the existing public surface water network at the junction of Fassaugh Avenue and Quarry Road c. 160 metres from the main development site and a new foul 225mm diameter connection will be provided along Fassaugh Avenue from the site boundary to the existing combined public sewer located c. 40 metres from main development site entrance, with these works incorporating an area of c. 0.0889 hectares. The development site area, road works and drainage works areas will provide a total application site area of c. 0.6288 hectares.

## **Decision**

**Refuse permission for the above proposed development based on the reasons and considerations set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

1. Having regard to the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing Planning and Local Government in December 2018, it is considered that the proposed development by reason of its design, scale, bulk and mass would be out of character with the context of the site, would represent a visually prominent and monolithic form of development relative to its immediate environment, would be visually obtrusive, and would seriously detract from the visual amenities and character of the area when viewed from the east and from the west, and in combination with the design in terms of façade treatment and architectural expression, would not constitute an adequate design response to the context and opportunity of this urban infill site, and would not, therefore,



be in accordance with the criteria set out under section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018.

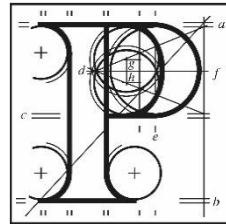
2. The proportion of single aspect apartments in the proposed development and quality of the internal layout, specifically the design of excessively long internal corridors with lack of natural light and adequate ventilation, in addition to the design and location of balconies, and positioning of windows giving rise to overlooking between apartments, would fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to guidelines issued to the Guidelines for Planning Authorities on the Design of New Apartments issued by the Minister in December 2020.
3. The Board is not satisfied on the basis of the Daylight, Sunlight and Shadow Report submitted, that the proposed development would not be detrimental to the established residential amenity of existing dwellings to the east, and the failure of a number of proposed apartments to reach minimum daylight target standards in the absence of robust mitigating compensatory measures, would result in poor residential amenity for future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Una O'Neill  
Senior Planning Inspector

25<sup>th</sup> May 2022

## Appendix A: EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>		ABP-312859-22
<b>Development Summary</b>		Construction of 117 no. residential units and associated site works
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application
<b>2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	

<p><b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b></p>	<p><b>Yes</b></p>	<p>See Inspector's Report Section 12.6.1 SEA undertaken in respect of the operative Development Plan.</p>
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<p><b>B. EXAMINATION</b></p>	<p><b>Yes/ No/ Uncertain</b></p>	<p><b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>   <b>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</b>  <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b></p>	<p><b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b></p>
<p><b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b></p>			
<p><b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b></p>	<p><b>No</b></p>	<p>The development comprises construction of residential units on lands zoned Z1, 'To protect, provide and improve residential amenities', with a small portion of the site zoned Z3 'To provide for and improve neighbourhood centre facilities', where</p>	<p>No</p>

		residential uses and retail are permissible uses and café use is open for consideration; and where residential, retail and café uses are permissible uses under Z3	
<b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b>	<b>Yes</b>	The proposal includes construction of a residential development which is not considered to be out of character with the pattern of development in the surrounding area.	No
<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	<b>Yes</b>	Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No
<b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b>	<b>Yes</b>	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p><b>No</b></p>
<p><b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services on site.</p>	<p><b>No</b></p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will result in 117 no. residential units which is considered commensurate with the development of a site within the Dublin Metropolitan Area.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	Stand-alone development, with other residential developments in the immediately surrounding area on zoned lands.	<b>No</b>
2. Location of proposed development			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ol>	<b>No</b>	No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European sites.	<b>No</b>

<p><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></p>			
<p><b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b></p>	<p><b>No</b></p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>No</b></p>	<p>The proposal considers all built environment, natural and cultural heritage issues and no significant impacts are identified.</p>	<p>No</p>
<p><b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b></p>	<p><b>No</b></p>	<p>There are no areas in the immediate vicinity which contain important resources.</p>	<p>No</p>



<p><b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b></p>	<p><b>No</b></p>	<p>There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water and groundwater, however, no likely significant effects are anticipated.</p>	
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion.</p>	<p>No</p>
<p><b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network.</p>	<p>No</p>
<p><b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b></p>	<p><b>Yes</b></p>	<p>There are no existing sensitive land uses or substantial community uses which could be affected by the project.</p>	<p>No</p>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	Permitted and under construction residential developments in the wider area have been considered. No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>	No	<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	EIAR Not Required
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands governed by zoning objective Z1, 'To protect, provide and improve residential amenities', with a small portion of the site zoned Z3 'To provide for and improve neighbourhood centre facilities', where residential uses and retail are permissible uses under Z1 and café use is open for consideration under Z1; and where residential, retail and café uses are permissible uses under Z3
- c) the results of the Strategic Environmental Assessment of the operative development plan,
- d) The existing use on the site and pattern of development in surrounding area,
- e) The planning history relating to the site,
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- h) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

- i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP) and Construction Management Plan,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

**Inspector:** \_\_\_\_\_ **Una O'Neill**

**Date:** \_\_\_\_\_ **25<sup>th</sup> May 2022** \_\_\_\_\_